The Secret Relationship Between Blacks & Jews

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The Leo Frank Case

The Lynching of a Guilty Man

The Nation of Islam

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The Secret Relationship Between Blacks and Jews

Volume 3

The Secret Relationship Between Blacks and Jews

A Series Sponsored by the
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Volume 1

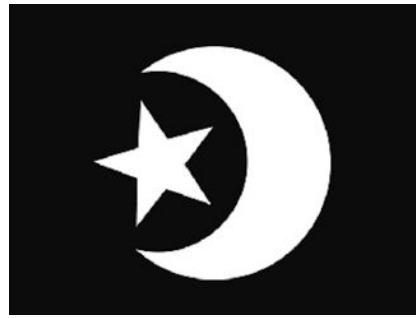
Jews in the Black Holocaust

Volume 2

How Jews Gained Control of the Black American Economy

Volume 3

The Leo Frank Case: The Lynching of a Guilty Man



The Nation of Islam

The Secret Relationship Between Blacks & Jews, Volume 3

The Leo Frank Case: The Lynching of a Guilty Man

This report was prepared by
the Historical Research Department of the Nation of Islam, Chicago, Illinois.

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ALL PRAISE IS DUE TO ALLAH

Let us have the truth in this case, and that speedily! Let us play with all the cards on the table, for the issue involves human life. Let the detectives get right, lest they fall themselves into the grave which they have dug for another, for Truth is on the March, and all things hidden will come to light.

—Leo
M.
Frank

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Articles, Books, Lectures, Dissertations, Manuscripts, Archives

Abbreviations

The following abbreviations are used in the footnotes:

Newspapers & Magazines

AC – Atlanta Constitution

AG – Atlanta Georgian

AI – American Israelite

AJ – Atlanta Journal

CD – Chicago Defender

Jeffersonian – The Weekly Jeffersonian, a.k.a. *The Jeff*

MJ – Marietta Journal

NYT – New York Times

WM – Watson's Magazine

WP – Washington Post

Books, Pamphlets, Journal Articles, Legal Documents, Archived Material

Argument of Hugh Dorsey – Hugh M. Dorsey, *Argument of Hugh M. Dorsey, Solicitor General, Atlanta Judicial Circuit, at the Trial of Leo M. Frank, Charged with the Murder of Mary Phagan* (Macon, GA, 1914). Also known as *Dorsey's Closing Argument.*

Brief – In the Supreme Court of Georgia, Fall Term, 1913, Leo M. Frank, Plaintiff in Error vs. State of Georgia, Defendant in Error: In Error from Fulton Superior Court at the July Term, 1913: *Brief of the Evidence* (1913).

Dinnerstein, *Leo Frank Case* – Leonard Dinnerstein, *The Leo Frank Case* (1966; reprint, Athens, GA: Univ. of Georgia Press, 1987).

Frey and Thompson, *The Silent* – Robert Seitz Frey and Nancy C. Thompson, *The Silent and The Damned: The Murder of Mary Phagan and the Lynching of Leo Frank* (1988; New York: Cooper Square Press, 2002).

Golden, *A Little Girl Is Dead* – Harry Golden, *A Little Girl Is Dead* (Cleveland, OH: World, 1965).

Hertzberg, *Strangers* – Steven Hertzberg, *Strangers Within the Gate City: The Jews of Atlanta, 1845-1915* (Philadelphia: Jewish Publication Society of America, 1978).

Lasker, interview – Albert D. Lasker, interview by Boyden Sparkes, transcript, 1937, Albert D. Lasker Collection, Charles Deering McCormick Library of Special Collections, Northwestern Univ. Library, Evanston, IL.

Lindemann, *The Jew Accused* – Albert S. Lindemann, *The Jew Accused: Three Anti-Semitic Affairs (Dreyfus, Beilis, Frank), 1894–1915* (Cambridge: Cambridge Univ. Press, 1993).

MANGUM – U.S. Supreme Court, FRANK v. MANGUM, 237 U.S. 309 (1915), LEO M. FRANK, Appellant, v. C. WHEELER MANGUM, Sheriff of Fulton County, Georgia, No. 775, Argued February 25 and 26, 1915, Decided April 19, 1915.

Melnick, *Black–Jewish Relations* – Jeffrey Melnick, *Black–Jewish Relations on Trial: Leo Frank and Jim Conley in the New South* (Jackson: Univ. Press of Mississippi, 2000).

Oney, *ATDSR* – Steve Oney, *And the Dead Shall Rise: The Murder of Mary Phagan and the Lynching of Leo*

Frank (New York: Pantheon Books, 2003).

Phagan Kean, *The Murder* – Mary Phagan Kean, *The Murder of Little Mary Phagan* (Far Hills, NJ: New Horizon Press, 1987).

Pinkerton – Pinkerton Detective Agency Investigation Reports, filed by various Pinkerton detectives, May 1913, Leo M. Frank Papers, American Jewish Archives, Cincinnati, OH.

Samuels, *Night Fell* – Charles and Louise Samuels, *Night Fell On Georgia* (New York: Dell, 1956).

Preface to the Secret Relationship Series

We have no documentable evidence of anti-Semitism on the part of the Temples of Islam movement or Elijah Muhammad.

—
Arnold Forster, Anti-Defamation League of B'nai B'rith

In 1991, the **Honorable Minister Louis Farrakhan**, National Representative of **The Most Honorable Elijah Muhammad** and the **Nation of Islam** (NOI), released the first of several volumes in the scholarly series titled *The Secret Relationship Between Blacks and Jews*. This research was prepared by the NOI's Historical Research Department in response to the increasingly vicious calumnies made against Minister Farrakhan by leaders of the Jewish community. Minister Farrakhan and the Nation of

Islam hold the theological belief that Black people of America are the *real* Children of Israel and that those who claim to be Jews are in error (Revelations 2:9, 3:9) and have no genealogical or prophetic relationship to the Jews of the Bible. He further states that the Jewish people are among the white historical oppressors of Black people and that the "special relationship" they claim to have formed with some Black leaders is deceptive, exploitative, and deleterious to Black independence and Black progress.

In its 334 pages *The Secret Relationship Between Blacks and Jews, Volume One*, conclusively proved the veracity of The Minister's position, revealing that Jews were in fact at the very center of the trans-Atlantic slave trade as slave traders, financiers, shippers, and insurers, and among the leading plantation owners and international marketers of the products of African slave labor, such as sugar, cotton, and tobacco. In the American Civil War, Jews had joined the Southern Confederacy as strategists, financiers, and soldiers willing to die and kill to maintain Black slavery.

Further, this information was meticulously researched from texts written by prominent Jewish scholars and historians such as Dr. Jacob Rader Marcus, Dr. Marc Lee Raphael, Dr. Bertram W. Korn, Dr. Abraham Karp, Dr. Herbert I. Bloom, Isaac S. Emmanuel, and Leo E. Turitz—*all of whom were also rabbis*. Today *The Secret Relationship Between Blacks and Jews* can be found in the collections of every major academic library, including those of every Ivy League college and university. Since its publication in 1991, the critics of the Nation of Islam have quietly abandoned the persistent mythological claim that Jews were either co-sufferers or innocent bystanders in the Black

Holocaust.

The second volume of *The Secret Relationship Between Blacks and Jews*, released by Minister Farrakhan in 2010, *How Jews Gained Control of the Black American Economy*, and its companion volume, *Jews Selling Blacks: Slave-Sale Advertising by American Jews*, presented in nearly 700 pages new evidence that challenges and corrects the prevailing interpretations of the history of Blacks and Jews in the post-slavery American South. The research confirms that after the "emancipation" of Black slaves, Jews helped create and defend the racially oppressive Jim Crow system in the American South and were among the leading traders in America's cotton economy. The American Labor Movement is shown to have had deep Jewish roots and a devastating long-term effect on Black economic progress. The Ku Klux Klan and other white terrorist groups were the premier enforcers of white supremacy and had Jewish involvement at every level—as supporters, members, and financiers.

The first two volumes of *The Secret Relationship Between Blacks and Jews* contain nearly 1,000 pages of research that uncovers a history of oppression Jews had successfully kept hidden from view. The present third volume in the series, *The Leo Frank Case: The Lynching of a Guilty Man*, examines a tragic incident largely unknown to most American Blacks but reverentially regarded by American Jews.

That incident occurred in Atlanta, Georgia, between 1913 and 1915 and involved a B'nai B'rith leader and factory manager named Leo Max Frank. He was tried and convicted of murdering a 13-year-old Gentile girl and sentenced to die. An unknown posse stormed the prison and lynched him, making Frank reputedly the only Jew ever lynched in

America.

The case became an international *cause célèbre* for Jews, most of whom believed Frank was the victim of anti-Semitism. Several books and hundreds of articles have been written on the tragedy, which has now become a central pillar of American Jewish identity. For one hundred years, Jews have insisted that the Leo Frank case is emblematic of their history of suffering and victimization in America. Moreover, the case so profoundly affected the relationship Blacks had with American Jews that it can be said that before the Leo Frank affair, Jews were the Black man's open enemy; after the Leo Frank affair Jews were the Black man's best friend. Indeed, the Leo Frank case is that pivotal point in Black history when the Jews' history of slave-trading, ownership of cotton, sugar, and tobacco plantations, Ku Klux Klan terrorism, and Jim Crow apartheid was deliberately replaced with a new narrative of shared persecution, civil rights coalition, and political common cause. Consequently, an honest assessment of the Black–Jewish relationship must include a comprehensive examination of the Leo Frank Case and its profound effect on both Blacks and Jews.

Significantly, the Jewish demand that scholars focus on the Leo Frank case history leads to an unanticipated treasure trove of unexplored records and documents that unlock the most confidential operations of the Jews' highest leadership circles. As the Jewish people united in the international fight to overturn Leo Frank's murder conviction, considerable data about their activities leaked into the public record—information so extensive and so revealing that its very existence is unique in the annals of Jewish history. The Leo Frank case offers a unique window into the thinking and strategizing

of the leaders of the Jewish people.

Leo Frank was not of the rank-and-file Jewish citizenry. As the president of the Atlanta chapter of the fraternal order B'nai B'rith, he was arguably the most important Jew in the South. Jews considered him as having, in effect, diplomatic immunity within the white rulership of the Jim Crow South, so his arrest, trial, and conviction shocked, offended, and activated Jews at the highest level.

White Gentiles and Jews had been intimate partners in Dixie's slavery system, from which they both derived vast riches. They had freely intermingled in the social, political, and economic culture of the white South, but the Leo Frank trial and conviction set up a showdown like no other in Gentile–Jewish history. All the major Jewish leaders —in banking, media, clergy, law, business, and politics—mounted a massive operation to free Leo Frank. And the racial ruthlessness of their efforts is laid bare through a massive cache of documents, including personal letters, rabbinical sermons, official reports, interview transcripts, legal filings, and newspaper reports. They tell a sordid tale of purchased testimony, the planting of evidence, racial scapegoating, extreme expressions of racism, financial manipulations, bribery, retaliation, threats to witnesses, and even attempted murder. The case is further marred by the academic world's willful concealment of this damning evidence, a deception that continues to this very moment.

From the trial of Leo Frank in 1913 to his lynching two years later, records reveal a methodology only hinted at and speculated on by such purportedly anti-Semitic texts as the *Protocols of the Learned Elders of Zion,* Henry Ford's *International Jew,* and Martin Luther's *The Jews and Their Lies*, all of whose theses were undermined not

only by an often conspiratorial and outside-looking-in perspective but also by their lack of documentation and specificity.

No other example exists that so publicly pitted Jews and Gentiles in a test of wills, like the Leo Frank case. And Jews practically demand that the outside world investigate the case to draw an accurate portrait of the American Jewish identity—how they have suffered and overcome racial and religious persecution. In 2015 Jonathan Greenblatt, the newly appointed National Director of the Anti-Defamation League, chose the 100th anniversary of Frank's lynching (August 17, 1915) to announce a major national initiative against anti-Semitism, and in his remarks Greenblatt invoked the name of Leo Frank multiple times. Without question, the case is *the* central pillar of Jewish American identity.

As we take a microscope to this little known but highly significant event in Black–Jewish history, we first examine the essential details of the crime, seeking the truth as to who really killed Mary Phagan. Next we unwrap this mystery in such detail that new and powerful truths are revealed that upset the standard narrative. And then we expose the untold story of the Jewish fight to free a B'nai B'rith leader who tried to get away with murder.

Introduction

The arc of the Moral Universe is long, but it bends toward Justice.

—
Martin Luther King, Jr. (inspired by 19th-century minister Theodore Parker)

What happened to Mary Phagan was terrible.…What happened to Leo Frank was even more terrible.

—Harry Golden

In 1913 Jim Crow Georgia, a wealthy and powerful white man was charged with the brutal rape and murder of his employee, a 13-year-old white girl. He vehemently denied the charge and accused two of his Black employees of the crime. He had the finest lawyers in the South and two of the nation's most expensive private detective firms at his disposal. The governor of the state of Georgia resolutely supported him, and the world's most important newspaper vigorously backed him. Yet, at the end of a two-year ordeal, the white man was lynched by a mob of fellow white men and the Black men went free. That outcome is unique in American racial history. And so we begin that incredible story.

These facts are indisputable: On August 25, 1913, Leo Max Frank, the Jewish manager of an Atlanta pencil factory and president of the local chapter of the Jewish fraternal organization B'nai B'rith, was found guilty by a Georgia jury and sentenced to death by hanging for the brutal murder of one of his employees, a thirteen-year-old white Christian girl named Mary Phagan. For the next two years Frank appealed the guilty verdict thirteen separate times and all the appellate courts, including the United States Supreme Court, upheld the verdict and the death sentence. On June 21, 1915, a day before Frank was scheduled to hang, Georgia's governor, John M. Slaton, commuted Frank's death sentence to life imprisonment, to be served in the state's penitentiary. On August 17, 1915, more than a dozen men seized Frank from the state prison, drove him to the murdered girl's hometown, and hanged him from a tree. He was one of only three Jews to have ever been lynched in

America. And beyond those established facts all agreement ends.

The trial and aftermath made major waves in the American judicial system when the peculiar circumstances of that trial opened a significant fissure in the very foundation of American white supremacy. Blacks had long been barred from participation in any "legal" proceeding except as defendants, and their testimony—especially in cases involving the fate of white persons—was simply deemed invalid. Despite those hard-and-fast Jim Crow laws and customs, Leo Frank became the first white man in the South to be convicted of a capital offense in a trial that featured the prominent testimony of Black witnesses. That fact alone made the Frank case revolutionary. The trial placed several of Frank's Black employees on the witness stand to contradict directly and convincingly the claims of their wealthy white Jewish employer.

By its admission of Black testimony, the Frank case could easily have been seen as a major advance in the long civil rights struggle of Blacks in America and a bellwether of future progress. Jews, however, did not see this judicial reform as a progressive action at all. The unprecedented deviation from the South's racist norms stunned Jews, causing them to reassess their relationship with their fellow Caucasians and to question whether they too had become vulnerable to the iniquities of American Jim Crow—a system which Jews had helped to establish and from which Jews had derived many, many social, political, and especially financial benefits.[1]

In fact, most Jews believed that the acceptance of "negro testimony" was a most egregious assault on *their* rights, that the court's validation of Blacks as witnesses was *the* proof that the white Gentiles

had turned their backs on them, and that "anti-Semitism" was responsible for Frank's conviction. Dr. Stuart Rockoff summarized the Jewish point of view:

> In the South, white defendants were generally protected from the testimony of black witnesses or the judgment of black jurors. Yet Frank did not receive this protection: and he was convicted and ultimately lynched based on the testimony of a black witness. Thus, social whiteness for Southern Jews could be provisional and limited.[2]

Further fueling this racial bonfire is the aggressive Jewish claim that the actual murderer of the young white Mary Phagan was Frank's own hired janitor James (Jim) Conley. Conley's impressive witness-stand testimony was easily the most damaging blow to Frank's trial defense. These dual insults—the tainting of the moral image of a Jewish leader and the belief that a white Jew paid the ultimate price for the crime of a Black man—have haunted and vexed Frank's Jewish advocates for a century.

Blacks are far less familiar with the Leo Frank Case, even though it is arguably as important to Black progress as *Plessy v. Ferguson*, *Brown v. Board*, or even Lincoln's 1863 Emancipation Proclamation. The Black janitor whose testimony became central to Leo Frank's conviction became the most quoted Black person in American history up to that time. More of his words appeared in print in the *New York Times* than those of W.E.B. Du Bois, Marcus M. Garvey, and Booker T. Washington—*combined*. Most significant, the Leo Frank case influenced critical events in the history of the relationship between

Blacks and Jews in America:

- Frank's lynching "became a symbol of Jew-hatred in America"3 and motivated Jews to build alliances with oppressed Blacks, resulting in the fabled and controversial Black–Jewish Alliance.4

- The Leo Frank case gave the nascent Anti-Defamation League of B'nai B'rith its raison d'être.5 The ADL would become the main representative body of American Jews and the Jewish organization most aggressively involved in Black internal affairs.

- The Leo Frank case was claimed to be the pivotal event that ignited the explosive growth of the terrorist Ku Klux Klan, which mushroomed to the largest size in its history.

Incredibly, the Jewish Leo Frank and his multi-ethnic, multi-racial saga are at the root of those signal events in *Black* history. So why has this case become so critically important even a century after its tragic conclusion? How has the lynching of this particular Jewish man superseded in significance the thousands of Black hangings, burnings, and shootings to become the symbol of lynching in America? Why is a scrutiny of this case vital to a true and accurate understanding of racism in America?

An objective and unemotional review of this forgotten tragedy will certainly result in pain for some, relief for others, but once the hidden and suppressed truths are uncovered and revealed, all

will be enlightened by a fresh analysis of this fateful event in American history.

Leo Frank & Mary Phagan: Predator & Prey

It was very hard for
us to be fair to him—

he impressed us as a sexual pervert.

—

Albert Lasker (Leo Frank's financier)

Leo Max Frank was born in 1884 in Cuero, Texas, the son of a successful Texas merchant. At three months old his folks moved to New York and raised young Leo in Brooklyn, before he went on to Cornell University and eventually obtained a degree in mechanical engineering. When offered a chance to become the superintendent of his uncle's Atlanta pencil factory in 1908, Leo Frank went south to take the position. Though raised a New Yorker, Frank possessed a legitimate Southern royal heritage: his uncle was a pro-slavery Confederate veteran. It was an honorific distinction that facilitated his acceptance into the aristocracy of Atlanta's elite community of German Jews, the well-established leaders of the Southern business world. He soon married the daughter of a prominent Jewish family, and moved in to his in-laws' residence. So quickly did he earn the respect of the Jews of Georgia that they elected him president of the 500-member Atlanta chapter of B'nai B'rith, the leading Jewish fraternal order in America.[6]

The National Pencil Company, then located at 37 South Forsyth Street in Atlanta, sat just about where the Sam Nunn Federal Center sits today. In 1913 the factory was part of a larger effort by

American industrialists to diversify the Southern economy and expand its base beyond the one-crop (cotton) agricultural system that had for nearly three centuries made whites entirely dependent on Black slave labor. But that effort sought the modernization of infrastructure without budging from the region's political, economic, and cultural obligations to white racial supremacy. Blacks were still forced to remain at the lowest rung, even as the South pushed forward to grow beyond the plantation.[7]

Leo Frank fully embraced that vision and operated his factory by the exploitative methods and practices that emerged from the slavery system. Black employees at Frank's pencil factory were paid less, limited to the rudest jobs, and confined to segregated facilities, and they faced corporal punishment if thought to be underperforming.[8] There were white restrooms on the upper floors and a "negro toilet" in the basement. Child laborers worked long hours in primitive conditions for minuscule pay, while the enormous profits accrued to the pencil factory's owners. Anti-Defamation League attorney Dale Schwartz lamented that in Atlanta, "There were a lot of sweatshops that employed young teenagers at ten-cents-an-hour wages, and a lot of them were owned by Jewish people…"[9]

Frank "viewed blacks as fundamentally inferior to himself and other southern whites," according to Dr. Stephen A. Brown. He believed "that southern black society was divided into two distinct groups: 'good darkeys' who could be trusted and 'bad niggers' who could not."[10] Worse, one of the company's major stockholders, the well-respected Oscar Pappenheimer, had in 1906—the same year in which whites sparked a major Atlanta riot, killing

over 50 Blacks—promoted Jim Crow legislation targeting all Blacks in the South:

> I propose the registration of negroes in the southern states 14 years of age and more….Each person so registered should possess…a certificate…in which should be entered description, date and place of birth and, at each registration, record of abode, employment, conduct and reference….[T]hese certificates would before long be of great value to industrious, well-behaved people. Let others decide whether it be legal to pass laws bearing on this subject with reference to the colored race only…

Pappenheimer's proposal was nearly identical to that which Adolf Hitler enforced against Jews thirty years later. And in the same Hitlerian tone, Pappenheimer said he wanted *his* law to target "trashy…thoughtless and shiftless negro[es]."[11] Frank's ten Black workers could aspire no higher than sweepers, haulers, elevator operators, furnace firemen, and night watchmen. Clearly, the National Pencil Company management *saw itself* as the industrial era's equivalent of a slave plantation.

Industrialization brought with it the addition of white women and children to the ranks of the exploited. Leo Frank's white employees were paid pittance wages of about seven to ten cents an hour for a 55-hour work week, amounting on average to a *weekly* wage of just $4.05 (the equivalent today of under $6,000 annually).[12] Frank's employees often worked in appalling filth, and as testimony would later reveal, the more than 100 young Gentile girls were often subjected to sexual harassment and even molestation. As one Jewish scholar admitted,

> Frank did hire child labor, did work it disgracefully long hours at pitifully low wages; and if he did not (as popular fancy imagined) exploit his girls sexually, he walked in on their privacy with utter contempt for their dignity. Like most factory managers of his time, he was—metaphorically at least—screwing little girls like Mary Phagan…[13]

Georgia alone, among all the then 48 U.S. states, allowed factory owners to employ ten-year-old children—and to work them eleven-hour days, six days a week. The problem had become such a disgrace that in 1906 the Southern Rabbinical Association argued that "child labor is not far removed from slave labor."[14] When Georgians tried to address the problem with legislation, the owners of the National Pencil Company were said to have fought the measure fiercely, and helped to kill it.[15]

The issue of females in the industrial workforce was also a growing concern for white Southerners.[16] Slavery's replacement was a sharecropping system[17] that enveloped both the Black ex-slave and a fast-expanding number of poor whites. As industrialization spread, many young girls were forced into the city factories, where they worked under the unchecked control of white male managers. Their wages—meager as they were—amounted to a substantial part of Southern family income. By 1907, more than 70 percent of the South's female industrial workers—Black and white—were under the age of nineteen, and they would soon make up an even larger portion of Atlanta's workforce.[18]

When Georgia politician Tom Watson spoke of female employees as being in the "possession" of

their factory bosses, it struck a resentful chord in Southern white males, who watched helplessly as "progress" lowered their women into a position no different in any discernible way from that traditionally reserved for Blacks. It was commonly believed that it was impossible for a female factory worker to remain a virgin. One mill owner confided that "to let a girl go into a cotton factory was to make a prostitute of her." And during slack seasons in the labor calendar, young women were even more vulnerable to sexual coercion.[19] Watson spoke on behalf of this new exploitable labor pool when he described them as "chattel slaves of a sordid commercialism that has no milk of human kindness in its heart of stone."[20]

The mood of the city and of the time is best reflected in a 1912 report by a commission established to examine the Georgia-wide commercial prostitution of white girls and women, known as "white slavery":

> The end of the battle is not yet for those girls who struggle on alone and unprotected with their more pressing financial problems. The greatest menace before her is man. The advances of men without even a spark of bravery or honor, who hunt as their unlawful prey this impoverished girl, this defenseless child of poverty, unprotected, unloved and uncared for, as she is plunged into the swirling, seething stream of humanity; the advances of men who are so low that they have lost even a sense of sportsmanship and who seek as their game a tired, lonely and destitute girl. She suffers and goes down and is finally sacrificed to a life of shame, but what of

> him? He escapes. It is not just, and this type of man should be severely punished.[21]

Most Southerners wanted to believe that some semblance of chivalry and honor was maintained in the sprawling Atlanta factories, but the ugly fact is that the National Pencil Company was among those businesses included in the commission's grim appraisal.

The Murder

" [T] he horrible mutilation of the body of Mary Phagan proves that the child was in the hands of a beast unspeakable…"[22]

The Jewish-owned National Pencil Company was closed for business on Saturday, April 26th, 1913, but not for the traditional Jewish Sabbath: it was closed for Confederate Memorial Day in honor of the dead and aging soldiers who had fought with valor but in vain to maintain America's most profitable economic institution—Black slavery. Frank arrived at the Forsyth Street factory at about 8:30 a.m. and attended to routine paperwork in his second-floor office. The factory payday was usually Saturday at 12 noon, but given the holiday the payoff time had been moved up to Friday. Frank expected the few who had missed it to come on Saturday.[23] Mary Phagan had asked her friend and coworker Helen Ferguson to pick up the $1.20 due

her on Friday—just as she had on two past occasions—but *this time* Helen was told by Leo Frank, "I can't let you have it," so Mary would have to come herself the next day to be paid. No reason for the refusal was given.[24]

By Saturday noon several factory employees had arrived, taken care of their business with Frank, and departed. Two carpenters renovating the fourth floor were still in the building. A Black janitor named James "Jim" Conley was stationed on the first floor, and Frank was alone on the second floor in his office when Mary Phagan arrived shortly after noon.[25]

Earlier that week Mary had been laid off from

her job operating a machine that attached erasers to pencils. The sheet brass that formed the metal bands that hold the erasers to the pencils had run out, leaving Mary without employment until the metal could be restocked.[26] Frank met Mary in his office, shortly after noon,[27] and gave her an envelope with her pay. She then asked him if the expected shipment of metal had yet arrived. Mary was, in effect, asking Frank whether she should expect to come back to work on Monday. Frank said to her, “I don’t know.”

The events from this point forward have been in dispute for nearly a century. Prosecutors convinced a jury that Frank’s ambiguous answer, “I don’t know,” was in reality a ploy designed to lure Mary down the hall and into the secluded back storage room ostensibly to see whether the metal shipment had indeed arrived. Frank’s attorneys would later dispute this, claiming that he had answered her with a firm “No,” but the detective who first testified of Frank’s uncertain reply had been hired by Frank himself.[28]

Alone with the girl, prosecutors contended, Frank closed the door behind them and lustfully forced himself upon her. She resisted, and in the struggle Frank struck Mary in the face, causing her to fall backward, her head striking the steel handle on one of the machines. The impact gouged the back of her head and knocked her unconscious. Frank, fearing the consequences if she were to regain consciousness and make the assault known, wrapped a cord around Mary’s throat and strangled her to death. The cord was wound so tightly that it remained embedded in her neck when the undertaker later removed Mary’s body from the factory.[29]

It was then, prosecutors say, that a panicked Leo

Frank summoned the factory's Black janitor James Conley, swore him to secrecy, and ordered him to help move the body to the basement. Conley and Frank carried Mary's body to the elevator, and upon reaching the basement, dragged her body across the dirt floor to a final resting place near a trash pile by the furnace.

Both men then returned to Frank's second-floor office, where he gave Conley a pad of paper and ordered him to write as Frank dictated. Conley wrote note after note, but the efforts of the barely literate janitor were unable to satisfy his agitated boss. A total of four notes were written, all to appear as if they were scrawled by the dying girl herself fingering her assailant—a Black man. Frank then ordered Conley to return later that day to burn the girl's remains in the basement furnace, promising him a cash reward and threatening to put the notes by the body. Conley left the factory, never to return that day.[30]

At 1:10 p.m., shortly after Conley left, Frank left for lunch at his home so as not to diverge from his customary routine. Frank returned to the factory at approximately 3:00 p.m. and waited in vain for Conley, and unable to incinerate the body himself, left two cryptic notes next to the dead girl.

At 4:00 p.m., another Black employee, night watchman Newt Lee, arrived at the factory to work his overnight shift. He had been employed at the factory for three weeks but this was the first time he had encountered a locked front door. Lee used his key to pass through, but Frank rushed from his office to inform Lee that he did not need him until 6:00 p.m. Lee asked if he could stay in the factory to rest for the next two hours. Even though the factory was completely empty, Frank refused this request and sent Lee away. Lee returned promptly

at six and Frank this time let him punch in and begin his duties as night watchman.

Moments later a white former employee named James Gantt arrived at the front door unexpectedly and asked to retrieve some shoes he said he had left at the factory. Frank had fired Gantt two weeks before and appeared startled by Gantt's presence. Frank refused his request, telling Gantt that he had seen the custodian throw out *a pair* of shoes. Gantt countered that he had left *two* pairs, whereupon Frank relented and allowed his former bookkeeper into the factory, but ordered Lee to escort him as Frank left for home. Gantt found *both* pairs of shoes and left.[31]

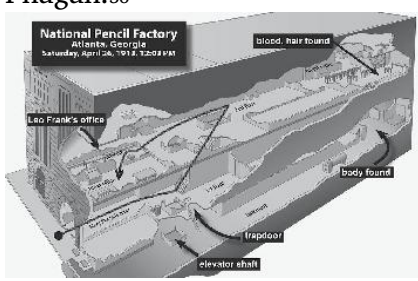
Less than an hour later at 7:00 p.m. Frank called Lee at the factory and asked if everything was all right, something he had not done before.[32] Frank would later claim that he had called the factory to make sure that James Gantt had left. But Lee testified that Frank *did not ask* about Gantt.[33]

At 3:00 a.m. Sunday morning, Lee again made his hourly rounds, and while in the basement he noticed a strange heap in the distance that appeared to be a body. At first he thought that some coworkers had played a trick on him, but he soon realized he had found the dead body of a white girl. Immediately, Lee telephoned Leo Frank, but, strangely, none of the four adults at Frank's home answered. Lee then called the police, who arrived at the factory within minutes.[34]

The investigating officers found that the body, clothing, and face of Mary Phagan were dirty from having been dragged across the filthy basement floor. They found two notes next to her body.[35]

The police immediately arrested the Black night watchman, Newt Lee. Soon thereafter, as leads and

information surfaced, they arrested the fired white employee who had come for his shoes, James Gantt; a former streetcar conductor and friend of Mary's named Arthur Mullinax; and a 19-year-old Black elevator operator at the factory named Gordon Bailey. Shortly after 7:00 Sunday morning, officers went to Leo Frank's house to question him. Two days later they arrested him for the murder of Mary Phagan.[36]



The Case Against Leo Frank

The immediate arrest of the nearest Black man was standard procedure in America and had sufficed up until the Phagan murder case as state-of-the-art policing. Indeed, night watchman Newt Lee was charged with the crime whilst standing in the basement, after leading police to the body. By practiced tradition, it would be only a matter of hours before the requisite lynch mob would assemble and take care of its gory responsibilities. Even the *Atlanta Georgian*, one of the three Atlanta dailies that seized upon the case as major breaking news, reported, "The theory that the crime was the work of a negro held full sway and was assiduously followed by detectives until Sunday afternoon."[37] Such was the hyper-racial climate in the American South, where its worst transgressions were

automatically assigned to Black people.

But peculiar and problematic elements of the crime undermined traditional white Southern assumptions. Lee's arrival at the factory long after the estimated time of Mary Phagan's death, his calm and cooperative demeanor, and the brutality of this "most foul and unnatural murder" troubled authorities and forced a retreat from their knee-jerk ritual.[38]

Adding to their concern was the noticeably nervous demeanor of factory superintendent Leo Frank, the last person to see Mary Phagan alive. When detectives appeared at his door early Sunday morning to inform him of the crime, he was standoffish and argumentative, insisting that he have a cup of coffee before he would accompany the police to the crime scene. He had not answered the early-morning phone calls from his night watchman or the two phone calls from police; and he sent his bathrobed wife to answer the door, even though he was fully clothed. The police at the scene described Frank as "extremely nervous," "quivering," "overwrought," and "pale." According to one officer at the scene, Frank did not even ask what had occurred: "I didn't tell him what had happened, and *he didn't ask me.*"[39]

Frank was brought to the pencil factory, where he appeared so nervous that he could not operate the elevator to the basement. The factory personnel manager, N.V. Darley, had to take the controls to accomplish that simple task. A policeman detailed to watch the factory from the street reported that Frank came to the window many times nervously rubbing his hands.[40] This behavior contrasted noticeably with that of the night watchman Newt Lee, who, with 62 lynchings of American Black men, women, and children in the previous year, had

every reason to be terrified. Lee showed no signs of anxiety as he brought authorities to the body and recounted every detail of his day.[41] Other actions and behaviors police observed in the first moments of the investigation fed their suspicions about Leo Frank:[42]

- When Frank was taken to the morgue to identify the body, the undertaker pulled back the curtain concealing the dead girl but Frank refused to look at her.[43]
- Newt Lee reported that the gaslight in the basement had been turned down to its lowest level, but that he had left it "burning bright" the night before. It was suspected that the murderer did this to conceal the victim from the night watchman so that he could later return to dispose of the body.[44]
- Even though he was not yet a suspect and had not been charged with any crime, Frank hired Georgia's most celebrated lawyer, Luther Rosser, and the nationally renowned Pinkerton Detective Agency. The police saw those hirings as suspicious behavior for an innocent man.[45]
- From the first confrontation with police Frank maintained that he did not know Mary Phagan, but when an opportunity arose to shift suspicion onto the former employee who had come to recover his shoes,

> James M. Gantt, Frank told police that Gantt had shown interest in courting the girl. Frank's sudden knowledge of the girl and an alleged amorous relationship alarmed investigators.[46]

The physical evidence collected at the factory only fueled suspicion of the B'nai B'rith leader. It appeared that a violent confrontation had occurred in the rear section of the second floor, the same floor where Leo Frank's office was located. A splattering of blood on the floor was found, along with a few strands of hair (on a machine handle) identified as belonging to the victim. Only Leo Frank and Mary Phagan were known to have been on this floor after the noon hour.[47] A witness said that on the morning of the murder, Frank "had a club which he used to play with, in his hand, and he was carrying it around." And when Frank was arrested, police confiscated a pocket knife "he had been in the habit of carrying," of the kind that might have been used to cut the cord found tightly wound around Mary's neck and the part of her undergarment found under her head to catch the blood.[48]

Frank had *emphatically* claimed that he never left his office during the probable time of the murder, but a factory employee named Monteen Stover came forward to say that she had also come for her pay that day and waited for Frank in his empty office for five full minutes before leaving empty-handed.[49] George Epps, a fourteen-year-old friend of the murdered girl, said that Mary told him that she was afraid of Frank because he had "winked at," "flirted with," and made advances toward her.[50]

And in a bombshell statement, the Black woman

who was the cook at Frank's home, Minola McKnight, said that she had overheard Frank's wife and her mother discussing Frank's confession to the crime on the night of the murder.[51] Frank's wife made a brief initial visit to the jail that held her husband but did not actually see or talk to him—and she did not return again for at least two weeks. For many, Mrs. Frank's absence lent credence to the cook's original statement, and led to the assumption that Frank's own wife believed him to be guilty.[52]

The layers of evidence seemed to lead consistently in one direction—away from the traditional suspect, the "negro night watchman," and toward Leo Frank. And yet more was to come. Though much of it could be classified as circumstantial, by April 29th, three days after the murder of Mary Phagan, enough of the evidence had been found to meet the standard of "probable cause" and justified Frank's arrest.[53]

The Framing of A Black Man: Newt Lee

There was much talk of lynching, but it was aimless talk, directed against no one in particular; the general opinion seemed to be that a Negro must be guilty, and the police did all they could to find a darky on whom they could fix the crime.[54]

—
Herbert
Asbury

Within 24 hours of the Saturday murder Leo Frank's crisis-management team was quickly taking form. On Sunday afternoon Frank met with several members of the B'nai B'rith, the Jewish organization for which he served as president, including several of its lawyers.[55] The Montag Brothers, owners of the National Pencil Company, hired Luther Z. Rosser, who was not only the most prominent attorney in Georgia but also the new law partner of the state's governor-elect John M. Slaton, the significance of which would play out many months later as the case moved to its ultimate

climax. Later that day Frank himself hired the Pinkerton Detective Agency,[56] stating publicly that he wanted the Pinkertons to assist the city detectives in ferreting out the perpetrator of the crime.

The professional and well-heeled pillars of Atlanta's Jewish elite came to Frank's defense, it soon became apparent, with a scorched-earth, all-or-nothing approach to his exoneration. Certainly, Frank had to be cleared of the heinous crime, but the explicit targeting of other individuals—*Black individuals*—to shoulder the blame became a clear objective of Frank's Jewish defenders.

In his behavior and comportment, the factory's night watchman appeared to be exactly the kind of Black man the white South was proud of. In his mid-fifties, he had been born into slavery and had always been known to perform diligently those menial tasks fitted for the sons of Ham. Newt Lee was loyal and devoted to his responsibilities at the factory, but three days after the murder the terrified Black man sat handcuffed to a chair at Atlanta police headquarters, where he emphatically swore on a bible that he had merely found the evidence of someone else's crime.[57] And despite headlines salivating for his lynching,[58] police found that Lee's story was unwavering, logical, and corresponded with the evidence they had collected so far.[59]

But Frank's people were lobbying hard to keep the police focused on the man Frank himself trusted to oversee and protect a building filled with advanced industrial machinery and a workforce of young white girls. He now publicly insisted that Lee either was the killer or had direct knowledge of the crime, and sensing the mood of Atlanta's white men Frank added fuel to the public rage against Lee:

> Under the present conditions of morals in Atlanta…these low characters undoubtedly have grown worse. That our janitor [Lee] was bribed to allow them [criminals] in the building, while a suspicion to me, is not an unbelievable suggestion. Such fellows as these might be expected to stoop to such things.[60]

Yet police remained unconvinced of Lee's guilt. They had found too many clues that seemed outside Lee's abilities and range. So they asked Frank to help them tighten the screws on his night watchman. Just fifty years after the Emancipation Proclamation, white employers of the South were seen as having slavemaster-like powers over their Black employees. So when the police told Frank—*who was then under arrest and in custody*—that they thought he "could get more out of the nigger" than they could, "Frank readily consented" and on April 29th met with Newt Lee one-on-one.[61] Lee later told of the event in his sworn testimony:

> They went and got Mr. Frank and brought him in and he sat down next to the door. He dropped his head and looked down. We were all alone. I said, "Mr. Frank, it's mighty hard for me to be handcuffed here for something I don't know anything about." He said, "What's the difference, they have got me locked up and a man guarding me." I said, "Mr. Frank, do you believe I committed that crime[?]" and he said, "No, Newt, I know you didn't, but I believe you know something about it." I said, "Mr. Frank, I don't know a thing about it, no more than finding the body." He said, "We are

> not talking about that now, we will let that go. If you keep that up we will both go to hell," then the officers both came in.[62]

After emerging from the strange session, Frank claimed "that he had made every possible effort to get the truth" and that Lee "still sticks to his original story." Odd as it seems for an innocent man, Frank had *asked no actual questions of Lee*. He had simply bided time and appeared to care little for the chance to gain vital information from an actual suspect who might add more pieces to the puzzle. In fact, the only question asked during the "interrogation" was the one Lee asked of Frank: "Do you believe I committed that crime?"[63] Det. Harry Scott caught a portion of the session and provided an unusual description:

> Mr. Frank was extremely nervous at that time. He was very squirmy in his chair, crossing one leg after the other and didn't know where to put his hands; he was moving them up and down his face, and he hung his head a great deal of the time while the negro was talking to him. He breathed very heavily and took deep swallows, and sighed and hesitated somewhat.[64]

And while Frank remained in custody, his team of hired agents appeared to have been operating in the shadows to establish a criminal profile for Newt Lee. The evidence of their extra-legal actions began to trouble Atlanta Chief of Detectives Newport A. Lanford, who suspected that there was an organized operation to throw detectives off the trail, and he brought his concerns to the newspapermen

following the case. Under the *Atlanta Constitution* May 4th headline IMPOSTERS BUSY IN SLEUTH ROLES IN PHAGAN CASE, it was revealed that two unknown men were posing as Pinkerton detectives and interviewing key witnesses. The article opened with a question: "What interests are promoting the planting of evidence in the Mary Phagan Mystery?"

> Not only are we being opposed, but… evidence is being planted. We have discovered numerous signs of "plants" in the past few days, and are not surprised at any "frame-up."

One of the "bogus detectives" had approached Mary's parents and for an hour questioned them on their daughter's "character and habits." Another approached the boy who had last seen Mary on the trolley moments before her murder.

Harry Scott, the lead Pinkerton detective in the Southern region, was assigned to the case but claimed to have no idea who these imposters were or on whose behalf they were operating. Scott had publicly taken a strong stand to do exactly what Frank had asked of him: to find the murderer of Mary Phagan. By law, private detectives were required to share evidence and work closely with police, but that was *not* why industrialists hired the Pinkertons, who specialized in violent union-busting and strikebreaking—not crime solving. In this respect, Scott may have been intolerably honest to the Frank crew, who very likely engaged a second faction of Pinkerton agents to pursue a darker agenda. It was apparent to many on the Frank team that Harry Scott had become convinced of Frank's guilt and would be of limited use going forward.[65]

Whoever they were, it didn't take much

investigative expertise to know that no Black man had the kind of money, influence, and resources to enlist a stealthy team of white agents with the ability to interrogate witnesses, plant evidence, and then disappear into the shadows.[66]

Frank's Time Slip Slip-up

Those falsely generated clues "framing up" the case all pointed directly to Newt Lee as the murderer, and the first of those "clues" came by way of Leo Frank himself. Lee's duty at the factory was to check all four floors every half-hour, and then punch his time slip after completing each round. When police questioned Frank at the factory shortly after the body was discovered, he affirmed that Lee's time slip was correct, verifying that Lee had dutifully performed his scheduled rounds up until the moment he discovered Mary's body.[67] But police, inexplicably, did not take the slip as evidence, leaving it with Frank.[68]

The next day Frank in the company of his lawyers reversed himself and said that he was mistaken and that the time slip "contained errors" in the form of "three skips." And, quite remarkably, Frank's new reading of the time slip showed a block of time unaccounted for—enough time for Lee to have gone home, conceal evidence of his crime, and return to work.[69]

Frank explained away his "mistake" by claiming that he and his manager N. V. Darley had at first only "casually" reviewed the time slip. Police found it difficult to believe that the meticulous superintendent would have missed a single discrepancy, much less three "skips." It was Frank

who calculated the pay and prepared the payroll weekly for many years for over a hundred employees, using these very time slips. That both he *and his personnel manager* were "mistaken" on the most important time slip they had ever analyzed strained the credulity of investigators.[70]

But it was this miraculous piece of "evidence" that made Newt Lee *the* prime suspect and it was the raw meat the voracious Atlanta press needed to scream in a Tuesday afternoon headline (repeated Wednesday) "LEE'S GUILT PROVED"[71] and to further predict his lynching. The *Constitution* was, in the meantime, editorializing that the murder was

> the most revolting crime in the history of Atlanta…that has no local parallel in sheer horror and barbarity…committed by some human beast with more than jungle cruelty and less than jungle mercy…[with] elements of horror and degeneracy that defy the written word.[72]

Frank's "corrected" time slip was enough for the *Atlanta Georgian* to declare the case closed:

> Additional clews *furnished by the head of the pencil factory* were responsible for the closing net around the negro watchman. With the solution of the mystery at hand came the further information that what suspicion had rested on Frank was being rapidly swept away by the damaging evidence against the black man....[73]

"LEE'S GUILT PROVED" DETECTIVES ASSERT
THE ATLANTA GEORGIAN EXTRA No. 8
BASEBALL
SUSPICION LIFTS FROM FRANK; MAY BE FREED; GAUTT GRANTED WRIT

Reports that a "mob" of white men was being formed to lynch Lee caused Chief of Police James L. Beavers to activate fifty mounted police at the jail to protect him. The *Atlanta Constitution* reported just how close Lee was to a violent death. When Lee was brought to the crime scene in a police car,

> [T]hreatening remarks came from the crowd that thronged around the machine [automobile]. "He ought to be lynched," said a heavy-set man who edged close[r] …."Yes," said another, "and I'd help do it."[74]

While many Atlanta whites were deciding whether Lee would be destroyed by rope, bullet, or fire, others were not so quick to accept the time slip "evidence" at face value. The *Atlanta Constitution* slowed Georgia's roll, reporting: "Some Theorists Believe Evidence Was Planted….They say that the watchman's clock evidence is flimsy and openly crude."[75]

There was more that disturbed the *Constitution* reporters. On Monday, April 28th, police investigators entered Newt Lee's residence and found a "fancy" linen shirt apparently covered with blood at the bottom of a clothes hamper. The shirt was indeed his, but police quickly noticed it had not been worn, the blood stain was on the inside, and it appeared to have been wiped in blood as one would use a rag to wipe a table.[76]

Strangely, just moments before the search, Leo Frank's attorney and fellow B'nai B'rith member Herbert Haas had suggested to detectives that they examine *Frank's* soiled clothes bin for potential evidence, ostensibly to clear his client. Investigators saw this miraculously timed suggestion as Haas's attempt to bait detectives to examine the laundry hampers of *both* suspects.

And though Frank's lawyers had directed investigators to search Newt Lee's clothes bin, Frank himself had made a suspicious change of clothes on the day of the murder. He had worn a brown suit on that Saturday, a blue suit on Sunday, and then the brown suit again on Monday.[77] In those times before the widespread use of washing machines and dry cleaners, men wore the same work suit every day of the Monday-to-Saturday workweek and another suit on Sunday, dedicated for church-going. On the day of the murder Frank went home for lunch and took an exceptionally long time of two hours to return to the factory, with one of his servants testifying that he did not actually eat anything at all and left almost as soon as he arrived. Frank had both the time and the opportunity to change and clean his suit during his lunch break. In fact, Frank does admit to cleaning up at a critical time: "I took a bath Saturday night at my home. I changed my clothes. The clothes that I changed are at home, and this is the suit of clothes I was wearing Saturday."[78] Frank's change of clothes during this critical weekend cloaked him in yet another layer of suspicion.[79]

The orchestrated triad of events—the time slip change, the calculated suggestion of where damning "evidence" against "the negro" might be found, and the finding of that "evidence"—only confirmed police suspicion that the forces now associated with

Leo Frank's defense were actively attempting to implicate Newt Lee. The *Atlanta Constitution* was reticent about outing Frank's conspirators; instead, the paper meekly asked: "Is the watchman suspect a victim of planted evidence? Is the real murderer striving to convict an innocent man? It is plausible."[80] Chief of Detectives Newport Lanford declared to reporters that somebody was "blocking Phagan investigation, silencing witnesses, and 'planting' evidence."[81]

The bloody shirt episode became the single incident that solidified police suspicion of the B'nai B'rith leader, leading them on Tuesday, April 29th, three days after the murder of Mary Phagan, to place him under arrest.

Only the bungling ineptitude of the Leo Frank forces saved Newt Lee from being lynched for the murder of Mary Phagan. Lee would remain in jail, but alive and under the protection of police, who now saw him more as a valued witness than as a murder suspect. The physical evidence may have been circumstantial and inconclusive, but the actions of Leo Frank and his representatives had dissipated any lingering doubt. Atlanta police turned their full attention to building the case against Leo M. Frank.

The Atlanta Press Presses for Answers

Within three days of the murder of Mary Phagan both Newt Lee and Leo Frank sat in separate jail cells at Atlanta police headquarters. From the discovery of the body early Sunday morning Atlanta's three daily newspapers—the *Constitution*, the *Journal*, and the *Georgian*—

aggressively pursued every facet of the case with unbridled fervor. They profiled the victim and the suspects, examined physical evidence, recreated the murder scene, compared timelines, and dogged police, private eyes, witnesses, and suspects for interviews and leads.

Newspapers at that time held immense power over the daily discourse, being the nation's single pre-radio and -television source of political, economic, cultural, and social news and issues. The popular Frank narrative stresses that in their competition for readers *and advertisers* the Atlanta press stirred up "anti-Semitic passions," but there is little to support that serious charge. Despite the explosive racial dynamics of a fast-unfolding murder case—including Leo Frank's insistence that "a negro" was responsible[82]—a careful reading of the news coverage in the earliest stages finds no trace of anti-Semitism at all.

The Anti-Defamation League's recently produced *Teacher's Guide* on the Phagan murder case claims that "[t]he notion of a perverted Jewish man lusting after innocent Christian children was planted in the minds of jurors, and carried to the public through sensational newspaper editorials."[83] But not a single article or editorial suggested anything of the sort. A month after the murder finds the *Georgian* editorializing an aggressive exoneration of Leo Frank:

> Frank never was seen with the girl, either on the day of the strangling or before. It is not known that he ever spoke to her except in connection with her work. Nothing was found to point the finger of accusation directly at Frank, so far as the public has been informed. None of

> Frank's clothing has been found with blood stains upon it. No finger prints upon the girl's body or her clothes were identified as his. None of his personal belonging[s] were found near the girl's body. Absolutely nothing was discovered in the search of the detectives that fastened the crime on him….The police possibly would never even have known that Frank was the last person to see Mary Phagan, so far as is known, had it not been for his own free admission. He told the officers the moment he identified the body that that was the girl he paid at noon the day before. No one else knew that Mary Phagan was in the building at that time, so far as the evidence reveals. Frank did not have to tell if he had desired to conceal the fact.[84]

And that narrative accurately represents the tone and tenor of the news coverage by all of Georgia's press from the April murder right on through the August trial. Frank's Jewishness was never mentioned[85]—except by inference when Frank's defenders raised his B'nai B'rith association, and then only as a means of reinforcing his integrity and character in the public's mind.[86]

By far, the greatest victim of negative and racist pre-trial publicity was Newt Lee, whose *negroness* was reestablished *every* time his name was mentioned in print. So intense was this assault that Mayor James Woodward had to step in to warn that a "misleading and sensational headline [might] inflame…an element" against Lee—not against Leo Frank.[87]

Newt Lee was constantly referred to as a

"negro" and openly threatened with death, even in newspaper headlines. One *Constitution* article stoked Atlanta's lynching fever with the inflammatory headline, "Your Loyalty Or [Your] Neck." In that same article, printed three days after the murder, Lee's race is referred to nine times. By contrast, when Frank was arrested, it was not called an arrest, and it did not even make the headline. The news is buried in the 14th paragraph and is delivered protectively, with pains to assure that "his *detainment* was more in the nature of an investigation." The *Constitution* counsels that it is a routine procedure, not indicative of suspicion. Indeed, the article credits Frank with providing information that led to the arrests of both Lee and one of the first white suspects, James Gantt—both gentiles.[88] The next day's headline, "Leo M. Frank Holds Conference With Lee," presents Frank not as a suspect, but as an investigator—or, better yet, as an inquisitor: "It was believed Frank would be able to wring a confession from the negro."[89]

Chief of Detectives Newport A. Lanford made it known that even though "Mr. Frank" was arrested and placed in custody, he would not be confined to a jail cell. Lanford had actually allowed Frank to employ a "supernumerary policeman" so that Frank "would be allowed the freedom of headquarters under charge of that policeman."[90] Frank's religion is never mentioned or alluded to, and he is treated in print with the greatest of respect for his prominence in the community.

Despite the well-worn but unprovable claims that the press fanned the flames of anti-Semitism, an analysis published in *Forum* magazine in 1916 reminds us:

> And, inasmuch as a race question has

> become identified with that case, let me remark in passing that all the early "news copy" relating to it passed through the hands of Jews. The managing editors of two newspapers and the city editor of a third were all Jews.[91]

Supernumerary policeman or not, a little girl was dead and no one lost sight of the fact that Frank was the last man known to have seen Mary Phagan alive. The physical evidence of her murder —the blood and the hair—was found on the same floor where his office was located and where he, by his own admission, had met with the girl just a few minutes before she was murdered. Prosecutors believed they had enough to hang Leo Frank for murder.

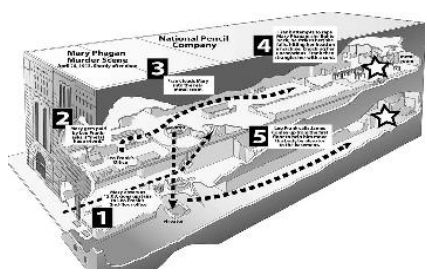
The Trial of Leo Frank: The Theory & The Evidence

In calling the state of Georgia's case against Leo Frank "persuasive," the writer of a 742-page book on the case, Steve Oney, confronts those who suggest that anti-Semitic, prejudicial rage motivated his prosecution.[92]

By the time of the trial Mary Phagan's murder had been investigated by the coroner's office and four professional agencies—the Atlanta Police Department, the Georgia state prosecutor's office, and the Pinkerton and William J. Burns detective agencies. The latter two were in the employ of Leo Frank, yet all four settled on a surprisingly similar theory,[93] which revolved around a spider-and-web scenario. They contended that on that Saturday,

April 26th, Frank used the occasion of the weekly payday falling on a holiday—when the factory was closed and deserted—to corner the unsuspecting 13-year-old Mary Phagan into a sexual encounter. When she resisted him, the 29-year-old Frank used brute force to subdue her, and in the ensuing struggle he *accidentally* knocked her unconscious. Realizing the dire consequences of his act, Frank then *intentionally* killed her by strangling her with a six-foot piece of heavy twine of the kind commonly used around the factory. The circumstantial chain of time, motive, and opportunity, along with the physical evidence, made Frank's conviction likely, though not trouble-free. The jury would not only have to weigh the prosecution's scenario but also have to consider whether any other theory was even plausible. As lead prosecutor Hugh Dorsey would say, it was not a "chain" of evidence, for "the chain is not stronger than its weakest link." Instead, the state's case was more like the strands of a rope,

> where none of them may be sufficient in itself, but all taken together may be strong enough to establish the guilt of the accused beyond a reasonable doubt.[94]



The Evidence

The State's case was built upon legitimate evidence, though there was one unusual feature that placed this prosecution in a class by itself: key pieces of the state's theory relied on the testimonies of Black witnesses to convince an all-white male jury that a prominent white male defendant was a murderer deserving of death. The state's solicitor Hugh Dorsey felt he could overcome that significant anomaly, and he assembled the case he would bring to a Georgia courtroom in August of 1913.

Allegation: Leo Frank murdered Mary Phagan in the metal room, which is located on the second floor, down the hall from Frank's office.

> **Evidence:** Police found splattered blood spots in the form of a fan on the floor in the metal room. A police officer testified, "I should judge the area around those splotches was a foot and a half. It looked like a white substance had been swept over it." Factory manager N.V. Darley testified, "It looked like there had been an attempt to hide" the blood spots. "The white stuff practically hid the spots."[95] The white substance, known as Haskoline, was sold and used as a lubricant for factory machinery. Only Frank appeared to have knowledge that it was actually made of "soap and oil" and thus he would have understood its value as a cleaning agent.[96] Several witnesses said the blood spots were not there on the Friday before the murder.[97] On April 26th Frank spent nearly all of his time at the factory on the second floor.

Allegation: Mary Phagan's head fell against a machine handle in the metal room.

Evidence: Several strands of hair were found dangling from a lathe, hair strands that witnesses insisted were not there on Friday when the factory closed.[98]

The two wounds to Phagan's head—one on the face, the other on the back of the head—caused hemorrhaging beneath her skull and produced unconsciousness. The injuries were consistent with someone being punched in the face and then falling backward and downward against the machine's metal crank-handle, with the projecting shaft tearing out some of her hair. [99]

Allegation: Mary Phagan was sexually assaulted before she died.

Evidence: Dr. H.F. Harris's trial testimony confirmed that Phagan was bleeding from her vagina before she died:

> On the walls of the vagina there was evidence of violence of some kind….The dilation of the blood vessels indicated to me that the injury had been made in the vagina some little time before death….There was evidence of violence in the neighborhood of the hymen.[100]

Allegation: The murder occurred at or about the time that Mary Phagan saw Leo Frank.

Evidence: It is known that Mary ate cabbage a little before she left home to go to the factory that day. A chemical analysis of the progress and extent of digestion of the contents of Mary's stomach fixed the time of the murder

at about the time that she met with Leo Frank.[101]

Prosecutor Hugh Dorsey brought his case to a Fulton County grand jury and on May 24th—almost one month after the April 26th murder—Leo Frank was indicted for the murder of Mary Phagan. The 23-member grand jury[102] *included five prominent members of the Jewish community*, all of whom, according to an internal ADL document, had voted for the indictment of Leo Frank.[103] Among them was Victor Hugo Kriegshaber,[104] a merchant and manufacturer who had been on the executive committees of both the National Conference of Jewish Charities and the Union of American Hebrew Congregations.[105] All signed the Bill of Indictment, which read in part:

> In the name and behalf of the citizens of Georgia, I charge and accuse Leo M. Frank...with the offense of murder…with force and arms, did unlawfully and with mal[i]ce aforethought, kill and murder one Mary Phagan by then and there choking her...with a cord placed around her neck...[106]

Newt Lee, they determined, would remain in custody as a material witness. With this grand jury vote affirming his investigation, Prosecutor Dorsey confidently prepared for the trial of Leo Frank, which would grip Atlanta for the summer of 1913.

Enter Black Man Number Two: James Conley

While Prosecutor Dorsey prepared for trial, another figure emerged in the drama that had previously escaped almost everyone's notice. Twenty-seven-year-old James "Jim" Conley had been employed at the factory for two years as an elevator operator and then as a sweeper.[107] On May 1st, a week after the murder, the pencil company's day watchman, E.F. Holloway, claimed to have seen Conley at the factory washing blood from his shirt. Conley said that it was a rust stain he was cleaning, but Holloway called police, who quickly took the Black man into custody.

Oddly, the idea that in the lynch-mob South a Black murderer of a white girl would return to the scene of his crime a week later not only wearing a blood-stained shirt but also laundering it in front of white witnesses did not seem absurd to investigators. According to the *Georgian*, "the police were inclined to attach little importance to his arrest."[108]

What should have been a bombshell break in the case was met with a curiously subdued police and press reaction. Most puzzling though was the utter indifference of Leo Frank, then in jail facing a capital murder charge. He and his team had proclaimed the murder to be a "negro crime,"[109] yet the arrest of a bloody-shirt-washing "negro" employee—which should have elicited cries of exoneration—aroused no excitement and induced not a single comment. An obviously counterfeited "bloody shirt" was clumsily planted in Newt Lee's home, but here was an actual "bloody shirt" at the crime scene, *still worn by a Black man*. It is as if Conley had *slipped* into jail, where he sat anonymously under the radar for the next few

weeks.

It turns out that the stain on his shirt was in fact rust but police continued to hold him anyway. James Conley was washing his shirt because he, like all the factory's employees, had been subpoenaed to appear at the coroner's inquest to tell what he knew about the events of the day of Mary Phagan's murder. Fulton County's no-nonsense coroner, Paul Donehoo, had the power to question witnesses under oath to determine the cause and manner of death and to recommend indictment to a grand jury. It was the first official examination of the case and all eyes were focused intently on the weeklong event. But while in police custody Conley missed the opportunity to testify.

The arrest of Conley—just as the coroner's inquest was getting underway, and on the word of a Frank employee[110]—demands a closer look. According to trial testimony from factory superiors, the watchman who fingered Conley, E.F. Holloway, had actually been "detailed…to maintain an espionage over Conley."[111] He was part of a surveillance operation within the factory itself, showing that Leo Frank and his team were extremely interested in the 27-year-old "negro sweeper" long before Holloway brought him to the attention of the Atlanta police.[112]

As Conley sat in jail out of the public spotlight during the weeklong inquest, scores of factory employees and other witnesses testified, the three Atlanta dailies parsing every nuance and speculating about every possible murder scenario. Coroner Donehoo concluded his inquest on Thursday, May 8th, finding that there was enough evidence to charge both Leo Frank and Newt Lee.

But Atlanta was stunned at what came next. Just days after the inquest, the forgotten sweeper James

Conley was revealing a minutely detailed account of the events of April 26th, alleging that his white boss, suspect Leo Frank, was the murderer of Mary Phagan.[113] After leaking selective details of the story, Conley finally divulged the particulars of the murder and for many put all speculation to rest.[114] He said that by prearrangement (made the previous day on April 25th), Frank met him at the factory on that holiday morning. Frank had offered to employ him—not to sweep as usual, but to sit in the first-floor stairwell as a lookout as he, Frank, had a private rendezvous with an unnamed woman just upstairs in his second-floor office. It was a role Conley claimed to have performed for Frank several times, when Frank used his office for trysts with women other than his wife.

According to Conley, when Mary Phagan arrived for her pay a little after noon, he saw her go up the stairs on her way to Frank's office. While in his position at the first-floor stairwell, Conley says he heard two sets of footsteps go from Frank's office to the rear of the second floor, but then heard a scream and only one set of steps return. Moments later a visibly shaken Leo Frank signaled Conley to come upstairs and directed him to the back room, where Conley discovered the girl's body, bloodied and lifeless, with a cord wrapped tightly around her neck. Frank explained that he had tried to have sex with the girl, but when she resisted he struck her, leading to her accidental and tragic demise.

Conley's account was rich enough with significant details to startle the police by its accuracy. His narrative of that day's events corresponded to the physical evidence police had collected and with the accounts of other witnesses, and, most important for investigators, a motive came into full view.

Conley said that Frank then ordered him to carry the body to the basement, but it was too heavy for him to carry alone. He asked Frank for help and, using the elevator, they both moved Mary's body and effects and then returned to Frank's second-floor office. Once there, the nervous factory superintendent gave Conley a pad of paper and ordered him to write out four separate notes, two of which would eventually be found by the police next to the body.[115]

The two notes became the feature of the case that most flummoxed investigators. The cryptic language suggested they were written by the suffering victim who in her last breaths scrawled the identity of her killer. But they were written in a rather unconvincing "negro" dialect, with misspellings intended to suggest the writer was an uneducated Black man. The first note read:

> he said he wood love me and land down play like night witch did it but that long tall black negro did buy his slef

And the second was more descriptive:

> Mam that negro hire down here did this i went to make water and he push me down that hole a long tall negro black that hoo it wase long sleam tall negro i wright while play with me[116]

The ruse fooled no one, in that Mary herself was never considered the author, and the police naturally deduced that the slayer had to be the author.

It was generally assumed in the post-slavery South that all Blacks were unable to read or write,

the calculated result of Jim Crow racism, so the presence of notes and the rather complex intent of the message made it impossible to classify Mary Phagan's death as a typical "negro crime." When James Conley was arrested, he denied he could read or write, but police found out through some pawn shop receipts he had signed that the factory sweeper could indeed write, and they began to increase the pressure on him.[117]

"I wrote those notes," Conley would later testify in court. "Mr. Frank had me write them. I didn't know what he wanted with them, and he gave me some money to do it."[118] He said that as Frank concocted the notes to pin the crime on a Black man, he made the cold-hearted comment, "Why should I hang? I have wealthy people in Brooklyn."[119]

Frank then ordered Conley to return later that afternoon to burn the body in the factory furnace.[120] Conley agreed but never returned, later saying he was too scared and went home to stay. And so for about fifteen hours the body remained in the basement, where night watchman Newt Lee found it early the next morning.

Asked why he had released the story gradually, giving the appearance that he was lying, Conley said that he had tried to cover for his employer by sticking with their pre-arranged story. "I didn't tell the whole truth then, because I didn't want to give the whole thing away then."[121]

As Frank came under more and more police pressure, his public claims that Mary's demise was a "negro crime" sounded to Conley as if Frank was getting ready to pin the murder on him, causing Conley finally to confess to his accessory-after-the-fact role. His statement was recorded in the *Atlanta Constitution*:

It's the truth, though, the whole truth, and I hope to God that He strikes me dead this very instant if it ain't.

I was intendin' not to tell the whole business. I was fixin' to take care of Mr. Frank like he told me to in the first place. I was going to keep my mouth shut and say nothin', until some of those folks down at the pencil factory opens up and begins tryin' to make out that I killed the little girl, and that I'm trying to save my own neck by fixin' it on Mr. Frank. That made me mad. It didn't make me any madder than it made me scared. I just put it down that if I didn't come on out with the truth, they would get me and hang an innocent nigger. I called for Mr. Detective Black that Saturday and begins to open up. I was afraid even then, though, to tell the whole business.

Finally, the thing got to workin' in my head so much that I just couldn't hold it any longer. I couldn't sleep, and it worried me mightily. I just decided it was time for me to come on out with it, and I did. The detectives and Chief Lanford treated me mighty fair, and I felt a whole lot better when I went up before them and told the truth.

I don't think I slept better in a long time than I slept last night. I knew I had told the truth, and I felt like a clean nigger. They won't do much with me, I don't think. Mr. Hugh Dorsey he came a long time ago when I first started to open up,

> and told me everything was all right and for me to go ahead with everything I knew.[122]

Meanwhile, Leo Frank was sitting in the Atlanta city jail still denying any knowledge of Mary Phagan's murder. But as soon as Conley's bombshell statement became known, a reporter hurried down to get Frank's reaction, and it was truly striking:

> "What have you to say to this?" demanded a *Georgian* reporter. Frank, as soon as he gained the import of what the negro had told, jumped back in his cell and refused to say a word. His hands moved nervously and his face twitched as though he were on the verge of a breakdown, but he *absolutely declined to deny the truth of the negro's statement* or to make any sort of comment upon it. His only answer to the *repeated questions* that were shot at him was a negative shaking of the head, or the [reply] "I have nothing to say."[123]

Once Frank recovered and regrouped, the lawyered-up defendant made a full-throated denial and countercharged that "the negro Conley" was the real murderer. And for the first time in American history, the word of a wealthy and well-connected white businessman was being openly defied and disputed by a poor, working-class Black laborer in a court proceeding. Each accused the other of a most heinous crime and there was no middle ground. One of the two—Leo Frank or Jim Conley—would face certain death at the end of a hangman's rope.

The fact that a "negro" charged a white man

with murder—that act itself being a lynchable crime in America—stunned Atlanta, sending newspapers into multiple editions. Conley's confession of his role in the cover-up provided the state with its first actual witness to the crime and added an explosive new racial dynamic. It set the stage for the first major *courtroom* confrontation in the history of Blacks and Jews in America.[124]

As the facts unfolded, it became clear to all that only Frank or Conley could have sexually attacked and murdered Mary Phagan. The only third option was that they had collaborated equally, meaning they both would hang. The historical odds were plainly stacked against the Black man, but the Georgia prosecutors—in the state that led the nation in lynchings—would take their case to an all-white-male Southern jury, asserting that Leo Frank, *the white man*, had committed the murder and that Conley's version of events was the legal truth.

If the scenario described by Conley had any truth in it—that some collaboration existed between him and Leo Frank—then the fortuitously timed arrest of Conley to keep him from being aggressively questioned at the coroner's inquest may have been yet another strategic maneuver by Frank's forces—a move, they now saw, that had backfired.

The Frank–Conley Stare-Down: Frank Blinks

The pure uniqueness of the Conley–Frank courtroom drama must be viewed in full American racial context. In the post-slavery South, a Black man, woman, or child who *talked back* to a white man was considered suicidal. A Black man accusing

a white man of *any* crime—*much less that of murder*—was uncharted racial territory. Not uncharted in terms of whether he would face a public execution—that was assured: just how many of the man's family, friends, and neighbors might be collaterally slaughtered was the only unknown in the equation. Collective punishments—including wholesale massacres of Blacks for the slightest *perceived* offenses—had become part and parcel of American race relations.[125]

In 1955, more than four decades *after* Mary Phagan's murder, a Black man named Mose Wright stood in a Mississippi court, and when asked to identify the white man he saw kidnap his murdered nephew Emmett Till, he pointed to the white man and said in common Black country vernacular, "Dar he (There he is)." For that simple testimony, the 64-year-old Wright had to *instantaneously* leave Mississippi for good.

Historian W. Fitzhugh Brundage reports that one-quarter of Georgia's reported mass mob lynchings involved "torture," "mutilation," and "grisly ceremonies." None of the Black victims of this gruesome system of white "justice" had even been *charged* with the acts that James Conley was now openly admitting to.[126]

Further, it was considered racial heresy for a white man to allow such Black insolence to go unpunished, in that it was feared that such a display of Black boldness would threaten the entire superstructure of white supremacy. Such a Black man had to be forcibly put down, lest he "infect with his audacity" everyone else's "negro property."[127] All whites lived by this code without exception—and Blacks, of course, had no option but to abide. But when Leo Frank was given the *responsibility* of confronting Conley face-to-face in

the presence of white men of standing, Frank declined, claiming instead that he needed a specific one of his many lawyers to be present, who was then out of town. But attorney Luther Rosser soon returned and Frank still avoided the head-to-head with Conley.[128]

American courtroom procedures have evolved in some respects since the nineteen tens, but in 1913 the age-old right to face one's accuser had not yet been confined to a courtroom procedure. And in the Southern society in which Frank lived and thrived this kind of extra-judicial confrontation was as common as an arraignment is today. Chief of Detectives Newport A. Lanford made every attempt to arrange a Conley–Frank encounter in the presence of the grand jury—not in the police station, the jail, or any environment to which Leo Frank might object.[129] But according to the *Constitution,* "When word came to [Frank] that the police chiefs and the Pinkerton man desired to confront him with Conley, the prisoner positively refused them an audience...."[130]

His refusal to confront Conley amounted to sacrilege, a grievous offense, and for many Georgians it was akin to a guilty plea.[131] For his part, the "negro" James Conley matched Frank's meekness with a startling *chutzpah* and was openly and publicly *demanding* the confrontation. The *Georgian* reported, "I'm anxious to face Mr. Frank and tell my story to his face."[132] The prosecutor made a telling point in the common language of white supremacy—a language that Frank and Atlanta's Jewish community spoke fluently:

> I tell you, gentlemen of the jury, measuring my words as I utter them, and if you have got sense enough to get out

> of a shower of rain you know it's true, that never in the history of the Anglo-Saxon race, never in the history of the African race in America, never in the history of any other race, did an ignorant, filthy negro, accuse a white man of a crime and that man decline to face him. And there never lived within the State of Georgia, a lawyer with one-half the ability of Mr. Luther Rosser, who possessed a consciousness of his client's innocence, that wouldn't have said "Let this ignorant negro confront my innocent client." If there be a negro who accuses me of a crime of which I am innocent, I tell you, and you know it's true, I'm going to confront him, even before my attorney, no matter who he is, returns from Tallulah Falls, and if not then, I tell you just as soon as that attorney does return, I'm going to see that that negro is brought into my presence and permitted to set forth his accusations.[133]

It was not as if Frank could claim to be upholding some higher legal principle: Frank, *though in custody himself*, was asked to confront Newt Lee, because, said an investigator, "I thought he could get more out of the nigger than we could."[134] Frank willingly performed the "interrogation" of Lee without hesitation or a request for the presence of his lawyers. (That the request *by law* should go through Lee's attorney is not even an idea worth consideration by police officials.) Frank's lead attorney, Deep Southerner Luther Zeigler Rosser, had no choice but to defend his client by sinking even deeper into the swamp, calling the act of confronting Conley "a dirty farce

with a dirty negro."[135]

Whatever racial rarities the case now presented, James Conley's story was convincing, his description of the particulars of the crime scene too detailed to have been spun from whole cloth. When Conley was brought to the scene of the crime to reenact his story, he left the several white witnesses awestruck. A reporter from the *Atlanta Georgian* described how Conley's account and demeanor affected those who witnessed the reenactment:

> The negro appeared to be telling a straightforward story and was ready with an answer whenever any of the officers asked him a question….[T]he negro went through the terrible tragedy movement by movement without faltering for an instant or hesitating as though he were not sure of his ground. Conley appeared perfectly composed as though he were reciting an everyday occurrence, but his earnest and apparently truthful bearing gave his dramatic story, told in a matter of fact way, a convincing power that evidently had its effect on every one who was listening to his recital….[He] did not hesitate for a moment during the entire time he was showing his part in the crime, and his frankness of speech and clocklike wor[k] impressed the officers that he was at last telling the exact truth.[136]

And at trial

> Conley testified with dramatic rapidity….He repeated the alleged conversations with Frank verbatim. At no

time did he display any uncertainty.[137]

Conley's on-scene account corroborated and added crucial detail to the prosecution's theory of the crime, and it had a devastating effect on Leo Frank's alibi. By this time the Frank team's dogged pursuit of Newt Lee had no takers among both the press and the investigators, who now were convinced that the night watchman was an innocent victim of a "frame-up." For many the pre-trial *coup de grace* came when Pinkerton detective Harry Scott broke cleanly from the Frank camp with these words:

> There is not a doubt that the negro [Conley] is telling the truth and it would be foolish to doubt it. The negro couldn't go through the actions like he did unless he had done this just like he said….We believe that we have at last gotten to the bottom of the Phagan mystery. Conley's confession fits exactly in with our theory.[138]

While Georgians had given the benefit of the doubt to Frank as a fellow white man, the weight of Conley's account put their doubts to rest. He had an incredible story to tell—and it was becoming clearer to Atlantans following the case that Leo Frank and his legal team were not as surprised about James Conley as they claimed to be. This growing suspicion put Frank's advocates in a precarious position: Winning the case now required more than simple denials. They would have to set their sights entirely on the destruction of the Black man James Conley.

Leo Frank Builds a Negro Defense

Was he really guilty?
"I studied all I could
and I can't figure it
out still."[139]

—Dr.
Jeffrey
Melnick

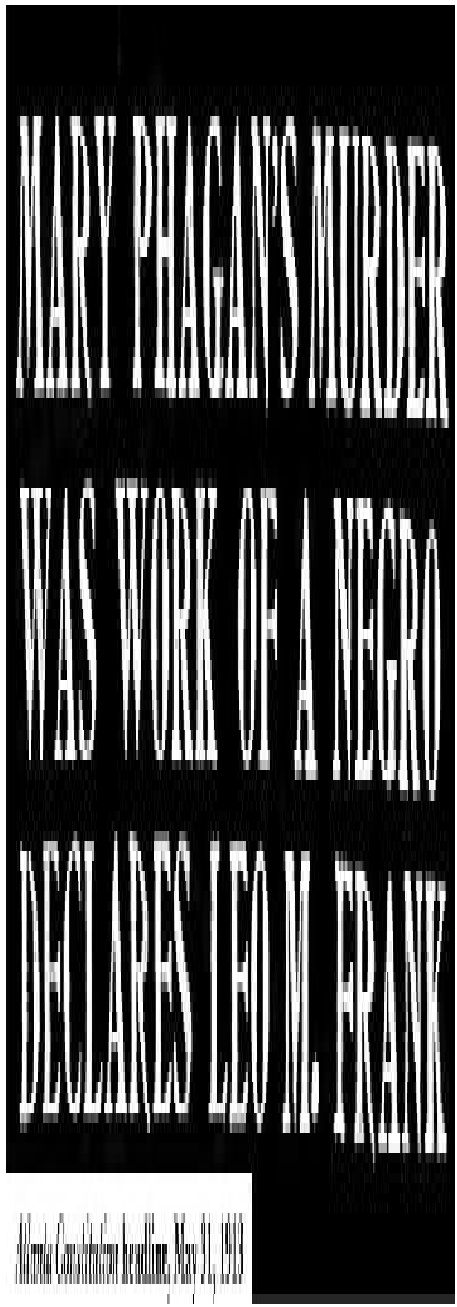
I think there was a
reasonable case
against Leo Frank.[140]

—Steve
Oney

Since the murder of Mary Phagan on April 26, 1913, Frank's theory of the crime was a moving target. He at first claimed he did not know Mary Phagan, and pointed to the employee he had fired, James Gantt, who had visited the factory that Saturday looking for his shoes. But when Frank told police that Gantt had had a romantic interest in the victim, he in effect confirmed that he did indeed know Mary Phagan. Thus, he drew more suspicion to himself rather than to Gantt, who was soon released from custody.

But Gantt's presence at the factory had another unintended consequence, which severely limited Frank's alibi options. James Gantt arrived at 6:00

p.m., just after night watchman Newt Lee returned to the factory and just as Frank was leaving for the day. Two hours earlier, Lee had arrived as scheduled but Frank inexplicably sent him away, telling him to return at 6. With the three having met in the front hallway area, Gantt became the only white man who could corroborate that Newt Lee had actually seen Leo Frank. He thus foiled any plans Frank may have had to create a false itinerary for Lee—or for himself—or deny knowledge of Lee's movements. Frank could have insisted that Lee, who had a key to the factory, had come even earlier than 4 p.m. (closer to the time of the murder), and no one but Newt Lee—a "long sleam tall negro," as described in the murder notes—would have been any wiser. Frank's startled reaction upon seeing Gantt at the factory at 6 p.m. the night of the murder may have been, in part, a realization that engineering Newt Lee's conviction would be far more challenging.



Still, the Frank team pressed police to indict the

friendless night watchman, even clumsily planting evidence to "help" the police with their investigation. But Lee's steadfast and unwavering self-defense beat back the lynch mobs and cleared him in the minds of Atlantans. And though Lee continued to be jailed during the trial, most suspicion in the popular mind shifted firmly to Leo Frank.

Abandoning their attempts to implicate Newt Lee, Frank's legal team moved to target the second Black man, James Conley. Conley's late May confession[141] upset the dynamics of the case and Frank's legal approach to it. Without Conley, the state's case was compelling but not fully convincing. The integrity, connections, and whiteness of the defendant and the youth, gender, and lower economic station of the victim conspired to give the legal advantage to Leo Frank. If Frank simply continued to maintain that he had no knowledge of the crime, his high-octane legal team could very likely achieve an acquittal.

Conley's detailed account, however, forced Frank into a position that required he provide specific explanations, not general denials. If Conley testified in court as convincingly as he had in public, the jury would need more than a simple claim of ignorance to acquit Leo Frank. The defense's response was to attack Conley—first as a "negro," then as a person of bad moral character—and obliterate his claims about Frank being the murderer of Mary Phagan. They counter-charged that "the negro Conley" was the lone murderer, whose motive was straight robbery.

It was simple, they said: a drunken James Conley entered the building about 9:40 a.m. in pursuit of Miss Mattie Smith, who came to collect her pay. Conley lay in wait with the intention of

robbing her, but he was deterred when she came down the stairs with factory personnel manager N.V. Darley.[142] Frank's defense team:

> Later he saw little Mary Phagan come in and waited until she came down. Then he grabbed her and tried to get her purse. A scuffle by the elevator ensued and the negro knocked the girl down the elevator shaft [to the basement]. He quickly followed her, going down by the trap door. He found her cut and bruised and unconscious. Then he tied the cord around her neck and choked her to death. He wrote the notes himself, and then he pulled the staple off the rear basement door and left the place.[143]

That murder scenario was followed up with a description of Conley's character that made him the obvious suspect:

> Is it not more reasonable that Mary Phagan passing down the stairway out of the factory from the office floor, to the street floor, down the very stairway, near where Conley was lurking in the darkness, under the influence of liquor, passions aroused, and hard up for money, was set upon the girl and thrust down the trap door to the basement (as the "Murder Note" sets forth), Conley follows her down and completes her undoing and accomplishes her death, breaks open the all[e]y door of the basement and escapes from [the] building?[144]

Attorney Reuben Arnold elaborated at trial: "It

was the crime of a savage negro, whose first attack is violence, because he can not accomplish his object in any other way." He added: "We don't know how long it took the nigger to kill the child."[145] Frank's defense team relied on this theory at trial, and it has been more or less the root theory that for a century has satisfied numerous case analysts. But to accept this theory and its embellishments in any meaningful way, one must necessarily reconcile it with an implausible set of assumptions. For instance, one must believe

- that a 27-year-old Black man who lives in 1913 Georgia—a state that led the nation in premeditated wanton and cold-blooded public murders of Black men, lynchings preceded by ghastly tortures, burnings alive, and living dismemberments, castrations, and amputations—would target for robbery an adolescent white girl, then rape and murder her, hide her body at their workplace, and then write notes about it.

- that on his day off Conley would choose his place of long-term employment to perpetrate the crime of robbery against fellow employees, knowing that his fastidious white boss was only a few feet away and that other white men were on floors above—within a few feet of an open front door, through which many other white people (employees and non-employees) were regularly entering and exiting.

- that Conley, after allegedly committing the murder, makes no effort to flee the state. Instead, as testimony would show, he gets some food, relaxes at home and then returns to the scene of Saturday's crime at his usual time for work on Monday morning.

- that, having no history of robbery, rape, or murder, Conley would prefer to rob Mary Phagan of $1.20, when he only had to ask Frank (or any of the other employees) to advance him money. And Frank (and Conley's coworkers) had done so willingly—several times. Frank even seemed to have become Conley's own personal banker.146

- that, even if Conley were intent on robbery, he would choose a young, thirteen-year-old girl who held one of the lowest-paying jobs of the workforce; and that he would think her to be a better target than Leo Frank, who was alone in his office only 20 to 25 feet away and who Conley knew possessed on his person and in his safe maybe hundreds if not thousands of company payroll dollars. Several other employees were in the factory that morning—all of whom in positions or with incomes higher than those of either Mattie Smith or Mary Phagan—and all had passed by Conley unmolested.

Conley would have been the only Black man in western hemispheric history who expected he could get away with such a crime. Jewish scholar Harry Simonhoff admitted, "The Georgian custom took care of a Negro rapist without bothering about a trial."[147] One could face a horrifying demise for complaining about wages, for having land or crops that a white man coveted, even for pursuing an education or for not answering a white man with the requisite inflections of submission.

It is far, far more likely that a white male factory owner who employed dozens of adolescent girls and had a history of extra-marital sexual relations (a fact admitted by Frank's defense) would use his authoritative position to gain sexual advantage over the females he hired. Not only is it an entirely conceivable scenario, but it is an accurate subtext of America's industrial expansion. Black American women—North and South—had been *continual* victims of this kind of white male exploitation for centuries, to such a degree that white male rapists produced an entirely new race they called *mulattoes*, the living evidence of the frequency of this fiendish behavior.[148] As historian Nell Painter stated in the television production *The People v. Leo Frank*, "One of the prime complaints of women in the workforce was their being preyed upon by men."[149] It is impossible for those predators to have been *Black* men.

In reality, an extraordinary set of facts—indeed, a mountain of evidence pointing to Frank's guilt—*had* to be in force for Conley to escape the legendary Southern lust for Black blood.

Frank's theory falters for all those obvious reasons, but Frank's own testimony negates his own murder scenario implicating "the negro Conley." Just two days after the murder the *Atlanta Georgian*

quotes a not-yet-arrested Leo Frank:

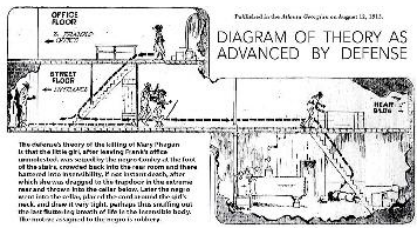
> [Mary Phagan] went out through the outer office and *I heard her talking to another girl*. While I could not swear that *they* went out of the building I am quite sure *they* did for I would have noticed anyone moving about the building.

Frank's fresh, unfiltered, and un-lawyered recollection negates his later charge of robbery and tends to clear James Conley. In fact, the *Georgian* reported that at 12:10 p.m., Saturday, Mary Phagan appeared at the National Pencil factory, drew the pay due her, and "chatted a few minutes with friends. The manager is sure she then left the building."[150] Months later, when giving his statement in court, Frank is less definite:

> She continued on her way out, and I heard the sound of her footsteps as she went away. It was a few moments after she asked me this question that I had an impression of a female voice saying something; I don't know which way it came from; just passed away and I had that impression.[151]

Frank's continually changing accounts of his critical encounter with Mary Phagan stood feebly next to the testament of Conley, which by comparison appeared to be set in stone. Circumstances had now forced Frank's legal team to press forward with their racist insistence that the murder was a "negro crime" and that consequently a "negro" must be held accountable. But Frank's theory was about to take another blow with the introduction of yet another white witness whose

experience at the factory that day severely weakened Frank's latest alibi and gave Conley's account another boost of believability.



Mrs. White's Negro Sighting

One of the most damning revelations in the case surfaced almost by mistake, but it has become pivotal to understanding why so many were convinced that Leo Frank was indeed the murderer of Mary Phagan. And it involved his apparent hiding from authorities the man who all of Frank's supporters claim was the actual murderer—James Conley.

Leo Frank steadfastly claimed that he had no knowledge that James Conley was anywhere on the premises on the day of the murder. And Conley maintained that he was at the factory only because Frank had asked him to stand sentry as Frank "chatted" privately with his female visitors.

Mary Phagan arrived at the factory just after noon and was believed to have been murdered a short time after that. During the crucial noon-to-one-o'clock timeframe, at least four people were at several different locations in the large and nearly vacant four-story factory. Among them were two workmen renovating part of the fourth floor and

Leo Frank working in his office on the second floor. One of the workers, named Arthur White, was visited, at 12:30 p.m., by his wife, Maggie, who brought him lunch just moments after the probable time of the murder. When she walked down the stairs to leave the building at about 12:50 p.m., Mrs. White reported that *she saw an unfamiliar Black man sitting near the elevator* on the first floor, an observation she reported to the plant's personnel manager, N.V. Darley, once the tragedy became known.[152] Darley then told Leo Frank, but according to Frank himself, he "sent a messenger bearing this intelligence" to his own hired investigator, Pinkerton agent Harry Scott, *but not to the police*.[153]

Mrs. Maggie White

In fact, the story was not pursued for a full

twelve days—until an Atlanta city detective thought to re-interview Mrs. White on that 13th day. Frank himself, who was arrested on April 29th, sat in jail accused of murder for almost two weeks without mentioning this crucial sighting by Mrs. White.[154] Prosecutor Hugh Dorsey believed that after first being forthcoming about what she had witnessed, Mrs. White became less so, and implied that pressure from Frank's team was the reason.

> We've shown that Frank knew of this disclosure on April 28 and now we expect to show that although Detective Bass Rosser questioned this woman here on that same day that *she refused to disclose this information to him or to any detective working for the state*, and that the state never knew of it until May 27.[155]

The "unidentified Negro" that Mrs. White saw that day was obviously James Conley, who had positioned himself near the stairwell, where he claimed Frank told him to sit as his "look-out."[156] Mrs. White's exit at 12:50 would have been about forty minutes after Mary Phagan's murder and six minutes before Frank called Conley up to the second floor to help him conceal the body. It does not take much of a sleuth to appreciate the salvational power of this casual Conley sighting, yet Frank and his team appeared suspiciously unable to grasp its value to their cause. Frank had retained the services of a highly experienced team of lawyers and detectives: Luther Z. Rosser had achieved a legendary status as a defense lawyer in the state of Georgia, as did attorney Reuben Arnold; and the Pinkerton detective agency was the nation's most feared and respected outfit of its kind. Herbert and Leonard Haas were the National Pencil Company's

attorneys, both well known and highly respected in their field. An *innocent* Leo Frank and his formidable squad of professional defenders would have *instantaneously* seen Mrs. White's negro sighting as no less than heaven-sent and would have made it central to Frank's defense. But they said and did nothing to pursue that lead or to force the police or the press to pursue it. It was only when Atlanta detective Bass Rosser pressed the issue that the Frank Team was no longer able to ignore that evidence.

Why Frank Concealed Mrs. White's Negro[157]

How could a strange, unknown, unexplained, unchaperoned, uninvited Black man be seen lingering anywhere near the scene of a murdered white girl and the news of this not lead to a sweeping, full-throttled manhunt by police, Frank, and his hired detectives? Indeed, Frank had already publicly declared the murder to be "a negro crime," a position he and his defenders held right on up until his own lynching in August of 1915.

The only logical explanation is as Conley claimed: Frank was sticking to the arrangement he had made with Conley to keep silent about the day's tragic events. According to Conley, Frank had instructed him to keep their association a secret, counting on each other's silence to weather the storm. And both held to that pact, but when investigators learned of Mrs. White's negro and sought to identify him, they began asking hard questions of the "negro sweeper" they already had in custody.

It has been claimed by some writers that Conley

had eluded serious suspicion because he was assumed to be illiterate and thus unable to write the notes left near the body. This alleged illiteracy, we are to believe, overruled the cause of his arrest—that he was caught washing blood from his shirt at the scene of an unsolved murder. In any event, it turns out that Leo Frank was in possession of a loan receipt signed by Conley, indicating that he—Frank—had been paying the jewelry store a dollar a week from Conley's salary for a purchase he had made. In fact, Conley had signed the contract in front of Leo Frank![158] Frank thus knew of Conley's ability to write but never volunteered that information.

When Frank was confronted with this, he claimed that it was *he, Frank,* who revealed to police that Conley could write and thus made Conley a serious suspect.[159] Both the police and the Pinkerton detectives denied Frank had made any such statement to them at all. Steve Oney's research confirms the Pinkerton/police version, finding no record of Frank's claim.[160]

The reality is that Frank knew the significance of Mrs. White's observation: investigators had deduced that the "negro" they had in custody could write and had been present at the crime scene *when* the crime had been committed—a fact that could no longer be contained.[161] As scholar Albert Lindemann admitted, Frank "did not even mention Conley to the police until it was unavoidable, *as if he feared to have Conley interrogated*."[162]

Had Mrs. White's observation been suppressed, as the Frank team tried to have done, Conley would never have been connected to the scene, and Newt Lee—believed to be the only Black man anywhere near the scene of this horrific "negro crime"—would probably have paid with his life. Frank said nothing to relieve Lee, even though he had

knowledge of another likely suspect. Frank, instead, urged police, through concocted and planted "evidence," to shift suspicion to the night watchman.[163]

When the episode was aired at Frank's trial, his lawyers actually tried to have White's evidence thrown out, calling it "irrelevant, immaterial, and not binding." They were unsuccessful.[164] It was so significant that when revealed during the trial, the *Atlanta Constitution* reported the reaction of the audience:

> It was at this moment that something occurred that had never occurred before during the progress of the trial. A burst of applause swept through the courtroom and several people clapped their hands loudly as though applauding at the theater something that met their approval. The deputies immediately began rapping for order and Judge Roan announced from the bench that such actions would not be tolerated.[165]

To the lay audience, and certainly to the jury of his peers, Frank's apparent indifference to the news of a Black suspect or, worse, his concealment of that man was yet more proof of the defendant's guilt. Add to this the damaging testimony of a solid Frank supporter, his second in command at the factory, Herbert Schiff. At trial and under oath he admitted, "I knew on Monday [April 28th] that Mrs. White claimed she saw a negro there."[166] Three-year employee Mrs. E. M. Carson testified that a group of factory employees were discussing the murder when they returned to work on the Monday morning immediately after Saturday's crime. Not only were they already aware of and commenting on Mrs.

White's sighting, but they had further speculated that the Black man she saw *must* have been the killer.[167] Mrs. Carson further testified that she said these words directly to James Conley, who had returned to the factory for work as usual on Monday:

> Jim, whenever they find the murderer of Mary Phagan it's going to be that nigger that was sitting near the elevator when Mrs. White went upstairs.[168]

This shows that even though Frank said he was totally unaware of it, a Black man's presence at the murder scene was common knowledge immediately after the crime was committed, even among the rank-and-file factory employees—and in their minds that fact was central to Frank's exoneration. If these amateur observers could so quickly deduce those facts, one must just as quickly deduce that the silence of Leo Frank and his team of lawyers and private investigators corroborates Conley's version of events. When the fact of Conley's presence confronted Frank, he realized that his only option was to "cut Conley loose," as it were, and he moved, *for the second time*, to pin his crime on a Black man.[169]

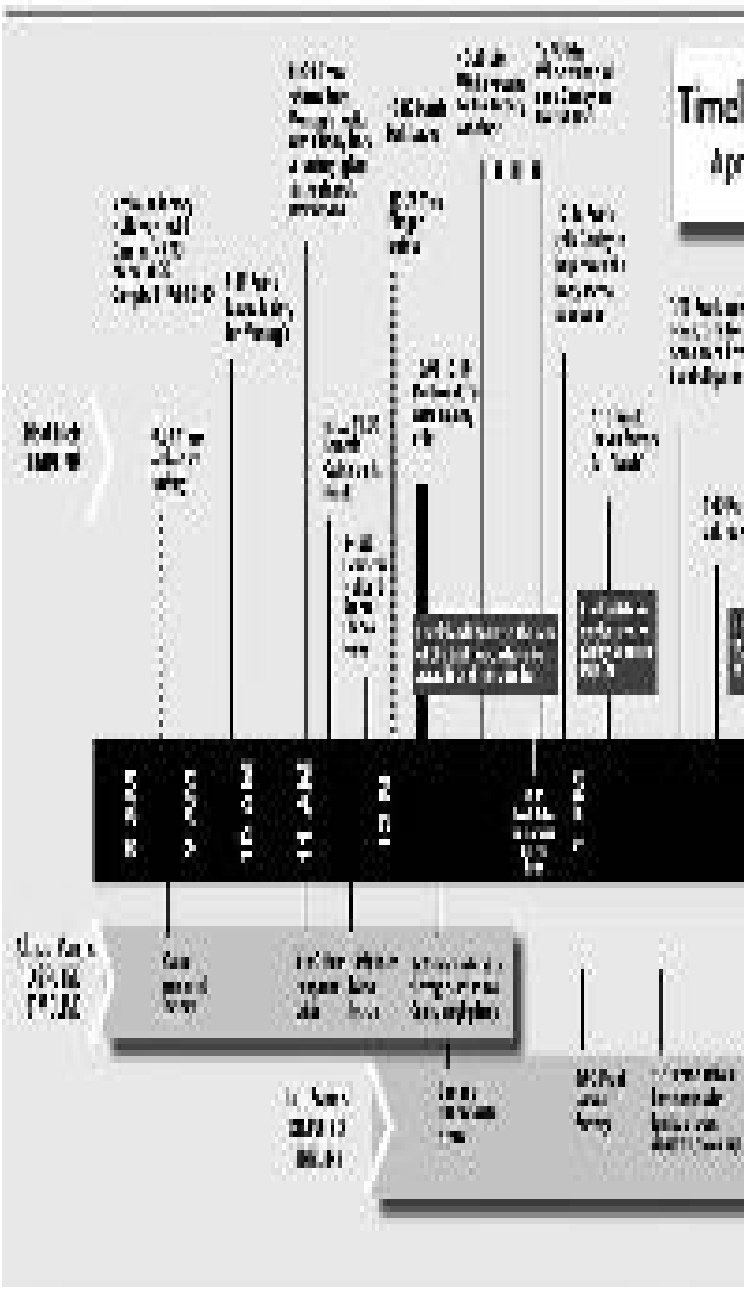
Frank and his partisans have tried to address that incredibly damning behavior by posing Frank as the hero of the episode, he having revealed to the police Conley's ability to write. As previously shown, there is no record of that claim. But according to the *Georgian,* early on in the investigation Frank took charge: "The canvass of employees was made under the direction of Frank himself." Just before his arrest Frank told the paper that "every one of the foremen and head men about the factory is endeavoring to find out if any of the

employees know anything."[170]

If Frank had truly intended to find the murderer, he—having knowledge of Mrs. White's "lurking negro"—could have simply assembled *all* his Black employees to determine their exact whereabouts on that day and to administer a writing test. And Conley would have been at the top of that writers list—by Frank's own personal knowledge. Nor did any of the other white employees speak up, several of whom claimed that they had *always* known of Conley's ability to write.[171] Herbert Schiff, who was involved in the investigation from the beginning, was very clear in his testimony:

> I knew that Jim could write. I have given him and the other negroes tablets like this (State's Exhibit H). They are kept everywhere in the factory. They would go down in the basement and write.[172]

The handling of Mrs. White's revelation by Frank and his team of practiced legal veterans is possibly the most compelling evidence of Frank's guilt. That they would allow the arrest, confinement, and "persecution" of their prominent and wealthy white client before a full investigation of the "lurking" Black man was simply gross, unforgivable legal malpractice and, on a broader but no less important level, racial malfeasance. The incident was also a problem for Charles and Louise Samuels, authors of the book *Night Fell On Georgia*. They wrote that Frank "always insisted that he passed on this information to the police..." But they added: "Why this promising lead was never followed up remains one of the baffling features of the case."[173]



The Trial of Leo Frank

Their defense of Frank was largely an asserting of his and, by extension, their own whiteness.

—Dr. Stuart Rockoff, Director of the Goldring/ Woldenberg Institute of Southern Jewish Life and the Museum of the Southern Jewish Experience

Much about Frank's life signified his whiteness. The African American

servants who worked in the home he and his wife shared with her parents, his control of poor African Americans and whites in the National Pencil Company factory, and his conversion of an empty jail cell next to his into a parlor to greet visitors, all indicated that Frank was a bourgeois white man.[174]

—

Jeffrey Melnick

Leo Frank's murder trial began on July 28, 1913, and was the longest and most expensive criminal trial in Georgia state history up to that time. From gavel to gavel it lasted twenty-nine days, more than 300 witnesses were subpoenaed, and the transcript of court testimony amounted to 1,080,060 words. World War I was raging but it had to share Atlanta's front pages with Leo Frank.[175]

Aspects of the murder investigation, the trial, and the events that followed were in many respects just as ugly as the murder. There were claims that witnesses were tortured, that affidavits and

confessions were forged, that bribery was rife, that perjury was rampant, and that false evidence was planted. Witnesses testified, then recanted their testimonies, and then recanted their recantations. There were illegal arrests and detentions; public access to the prisoners, witnesses, and evidence; multiple and competing public and private investigations; high crimes, misdemeanors, and blatant conflicts of interest. There was even—*yes*—a bloody glove.[176]

Attorneys openly expressed their anti-Black racism in the courtroom and to the press, and the trial proceedings were infused with lurid accounts of sex and violence. Other issues lurked just beneath the surface of the Leo Frank case: child factory labor, class-based North–South animosities, pedophilia and sexual deviance, and the widespread indignation over the criminal outrage committed against a poor daughter of the South.[177] Ironically, the only social sin that was almost completely absent from the trial was that which many Jews would later claim *dominated* the proceedings—anti-Semitism.

Despite all of the above, the *trial* of Leo Frank itself maintained a relatively sturdy judicial form. Indeed, a close analysis of the official trial record and the extensive day-by-day media accounts reveals the trial of the B'nai B'rith president may have been the fairest ever seen in an American Southern courtroom. A long-experienced Judge Leonard S. Roan presided, and the prosecutor for the state of Georgia, Hugh M. Dorsey, had presented his case against Leo Frank to a grand jury—five of whose members were Jews—who in turn handed up the murder indictment.

The trial was conducted, as was all public business in Atlanta, within the strict racial guidelines decreed by Jim Crow. Whites swore on a whites-only bible; Blacks swore on a separate "negro bible"—with those of the Jewish faith swearing on the white one.[178] Frank entered the courtroom at the head of an army of attorneys, the ADL counting at least eight. Among his lead attorneys was Herbert J. Haas, a B'nai B'rith member who hailed from one of Atlanta's most prominent families of German Jewish aristocrats. Haas chose two prominent Gentile lawyers to conduct Frank's courtroom defense: the legendary cross-examiner Luther Z. Rosser and the unyielding Georgia bulldog Reuben R. Arnold—both fully ensconced in the Southern justice system and fully accepting of its legal vagaries. They had but one assignment: to wrap a formidable legal noose around the black neck of the state's prime witness, James "Jim" Conley.[179] The *Georgian* could not wait for this "most thrilling situation":

> Anyone who has seen a witness made the object of Rosser's attack knows that Jim Conley is in for a bad day when he is called to the stand….Rosser's plan opens up the dramatic possibility of a courtroom confession from Conley.[180]

Luther Rosser came with an additional advantage for the defense: he had once been Judge Roan's law partner *and* he had recently welcomed a new attorney and partner into his law firm, the

newly elected governor of Georgia, John M. Slaton. Even at this early stage it escaped no one's notice that Slaton's occupying the state's highest office carried with it the pardon power to override an adverse verdict. And though Governor Slaton had, by law, distanced himself from the firm, he yet maintained an office there, with his name still inscribed on the door. And all those substantial benefits would prove to be useful as events unfolded.[181]

Frank himself assisted his defense team as they chose an all-white, all-male jury of twelve from a pool of 96, rejecting all Blacks out of hand.[182] It was an ironic element at the opening of a trial in which the contribution of Blacks would prove pivotal to his legal fate.

Black Power on the Witness Stand

We do not give testimony in front of him [;] …we do not summons him to be a witness…and we do not accept testimony from him [.]

—The Talmud, Pesachim 49b

[M] y character has

been blackened by those who sought my conviction.[183]

—Leo Frank

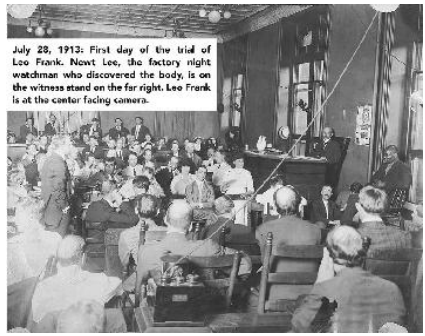
You can't get a man with Anglo-Saxon blood to admit he lied. He has pride. I have never seen one admit he lied. No matter where he is born, he has that same Anglo-Saxon pride….Now, with a negro it is different. He will admit he lied. Jim Conley, without any character to protect, lied this way and lied that…

—Luther Rosser, closing argument

Atlanta was in the midst of a heat wave as the trial of Leo Frank got underway.[184] Readers of William Randolph Hearst's upstart *Atlanta Georgian*

would have seen the bold headline above the masthead "TRIAL OF LEO FRANK BEGINS." And beneath they would find a much smaller but infinitely more grotesque reminder of exactly where they were geographically and historically: "DUNBAR IS QUIET AFTER LYNCHING." The brief notice detailed how members of a mob of Georgia Caucasians chased "negro" John Sake into a swamp and "strung him up to a pole and literally riddled his body with bullets." In four speedy paragraphs describing an even speedier affair, another Black man was tried, convicted, sentenced, and executed by a white mob that "dispersed immediately…and not a clew remains." Fifty more such beastly racial attacks would occur in America in 1913. Blacks were as horrified as whites were pleased that their justice system worked so efficiently. Most assuredly, the Blacks whose testimony would be prominently featured in the days to come understood what was at stake. The contrast between America's two "systems of justice" could not have been made clearer.

Prosecutor Hugh Manson Dorsey opened with a careful and systematic presentation of the state's theory of the crime. He had amassed a body of circumstantial evidence against the defendant that was fortified with scores of witnesses and with the physical evidence of blood stains and hair. He would argue that a violent event had occurred on the second floor, where Leo Frank's office was located, and that Mary Phagan was never seen alive again after she had met with her boss. That evidence had been enough to convince Frank's own hired private eyes of his guilt, and, more important, it was enough to generate an indictment from a grand jury with several Jewish members. Now Dorsey would put that evidence to the ultimate test in front of a jury.



July 28, 1913: First day of the trial of Leo Frank. Newt Lee, the factory night watchman who discovered the body, is on the witness stand on the far right. Leo Frank is at the center facing camera.

The pencil company employee who discovered Mary Phagan's body in the factory basement in the early morning hours of April 27th—the much-maligned, falsely accused, and nearly lynched night watchman—was sworn in and entered into the official record as "NEWT LEE (colored)." "Colored" was a persecutional tag that Leo Frank would never have to countenance or confront.[185] When Lee was sworn and able to present his account of the episode, his testimony was so forthright, his demeanor so self-assured that the *Atlanta Constitution*'s reporter felt compelled to observe that even under Luther Rosser's legendary cross-examination,

> Lee stuck to his original story in the minutest detail. Questions that would have confused or befuddled a man of education failed to budge him from the statement he originally made to the police…
>
> Seasoned courthouse officials and old reporters marveled at the way the negro held out against the crossfire of questions, all aimed to confuse him.[186]

And with a confident and entirely reasonable

self-defense Newt Lee unloosed the rope from his own neck and slammed the door on Leo Frank's intention to make him complicit for the crime he simply discovered. In fact, it was Frank alone who had continued to target his former night watchman, goading the police and the city newspapers to keep the suspicion of Lee alive. But as the murder investigation pressed forward, nearly all involved—from the chief of police to the newspapermen to the private investigators—publicly proclaimed Lee's innocence several weeks before the trial.[187] Atlanta's chief of detectives, Newport Lanford, was clear:

> Lee has completely been eliminated from the case as a suspect, and is now counted as one of the strongest witnesses against Frank. "There is not the slightest doubt of the innocence of Newt Lee. I'm certain he has told all he knows of the death of Mary Phagan."[188]

Now at trial, Lee could speak for himself. So effectively did Newt Lee rebuff the Frank Team's maneuver that the newspapers were speculating his release from custody might occur within a couple of days.[189] Thus, on the very first day of his trial Frank was given his first cold reality check by the very Black man he had so vigorously tried to implicate. The racial profiling Frank had planned as a defense strategy would not be the easy victory he anticipated.

Jim Conley Testifies

This negro is no ordinary negro. Did you notice him on the stand? "What's your name?" "James Conley." That's the way he answered me. "James." Did you notice it? It wasn't Jim. Maybe one time when he wallowed in the mire of the streets it was Jim. But after some sinister man had shaved and bathed and pampered him and used scented soap in his hair, he was "James."

—

Luther Rosser, closing argument

With Newt Lee fully acquitting himself, it was clear that the appearance of James "Jim" Conley,

the confessed accessory after-the-fact, would be the most anticipated showdown of the trial. As far as Frank's attorneys were concerned, if their client were going to be exonerated, the factory sweeper's testimony and his very character simply had to be destroyed. Prosecutor Dorsey was taking a major risk by arranging such a racial confrontation in a Southern courtroom. "Negro testimony," as the courts referred to it, was simply worthless in all legal matters, yet for the first time in American history Dorsey intended to use it to erect the gallows by which to hang a white man of wealth and standing. It was an astonishing departure from all Southern racial customs and uncharted legal territory. But Conley's uncanny ability to recall and relay crucial details of the crime emboldened the prosecutor to take that risk.

Moving with dispatch, Dorsey continued to reconstruct the events of April 26th to establish the last known movements, actions, and words of the thirteen-year-old victim Mary Phagan. Her family, her friends, and her co-workers helped chart her last twenty-four hours. Police first responders and detectives recounted the gruesome discovery of the body and the related clues. Dorsey meticulously laid out the strands of evidentiary facts for his much-anticipated main witness to weave together.

On August 4th, James Conley was called to the stand, and the sheer drama of his presence in the witness box mesmerized all of Georgia. He would be on the stand for sixteen hours, longer than any other witness in state history up to that time. The Black man calmly and cogently gave a riveting and unflustered account of the role his boss had instructed him to perform in the aftermath of Mary Phagan's murder. Conley's gift for recounting the details and the nuances of his experience, by all

accounts, was extraordinary. It quickly became evident why Prosecutor Dorsey had placed so much confidence in the simple "negro sweeper." Through a race-fogged lens the *Atlanta Georgian* reporter observed:

> The negro forgot nothing, omitted nothing that he had told before. If he was telling a black lie to save his own neck from the gallows, it was still more wonderful. He had a remarkably retentive memory or an imagination far beyond the normal even for his notably imaginative race….So fast the words fell from his lips that the stenographers were hard put to keep up with him and the jurors, straining forward in their seats, found difficulty in following his recital. He sat there, an uncouth, thick-lipped ignorant negro, but he told a story that gripped his auditors with a compelling interest that an eloquent-tongued orator could not have aroused.[190]

At its core Conley's witness-stand narrative was solid and unwavering.

Attorney Luther Rosser later charged that Atlanta detectives had concocted the story and coached "the negro," but that was unlikely.[191] Conley's minute-by-minute account was honeycombed with any number of opportunities for impeachment. For instance, here Conley tells of his prearranged meeting with Frank on the morning of the murder and his recruitment to be the "lookout" for his boss later that day. Note (in boldface type) the sheer number of witnesses Conley refers to who could have been found to dispute or deny his account. Georgians had to have understood that a

"coached" liar would not have built into his story so many chances for exposure:

> On April 26th, me and Mr. Frank met at the door. He says, "What I want you to do is to watch for me today as you did other Saturdays," and I says, "All right." I said, "Mr. Frank, I want to go to the **Capital City Laundry** to see **my mother**," and he said, "By the time you go to the laundry and come back to Trinity Avenue, stop at the corner of Nelson and Forsyth Streets until I go to **Montags**." I don't know exactly what time I got to the corner of Nelson and Forsyth Streets, but I came there sometime between 10 and 10:30. I saw Mr. Frank as he passed by me, I was standing on the corner, he was coming up Forsyth Street toward Nelson Street. He was going to Montag's factory.
>
> While I was there on the corner he said, "Ha, ha, you are here, is yer." And I says, "Yes, sir, I am right here, Mr. Frank." He says, "Well, wait until I go to **Mr. Sig's [Montags]**, I won't be very long, I'll be right back." I says, "All right, Mr. Frank, I'll be right here." I don't know how long he stayed at Montag's. He didn't say anything when he came back from Montag's, but told me to come on. Mr. Frank came out Nelson Street and down Forsyth Street toward the pencil factory and I followed right behind.
>
> As we passed up there the **grocery store, Albertson Brothers**, **a young man** was

> up there with a paper sack getting some stuff out of a box on the sidewalk, and he had his little baby standing by the side of him, and just as Mr. Frank passed by him, I was a little behind Mr. Frank, and Mr. Frank said something to me, and by him looking back at me and saying something to me, he hit up against the man's baby, and the man turned around and looked to see who it was, and he looked directly in my face, but I never did catch the idea what Mr. Frank said.
>
> Mr. Frank stopped at **Curtis' Drug Store**, corner Mitchell and Forsyth Streets, went into the **soda fountain**. He came out and went straight on to the factory, me right behind him.[192]

Conley has described encounters with several specific individuals and in several specific places before he has even arrived at the scene of the crime. He said that a number of draymen had seen him with Frank as well.[193] And all those points of impeachment are superfluous to the murder plot and unnecessarily risky if they were untrue. In fact, area resident Hattie Waites, a white woman, said she did indeed see Frank on the street in "close conversation with a Negro," verifying Conley's account.[194] He continues, discussing his pre-arranged meeting and the familiar task he was given by Leo Frank:

> "I want you to watch for me like you have been doing the rest of the Saturdays." I always stayed on the first floor like I stayed the 26th of April and watched for Mr. Frank, while he and a

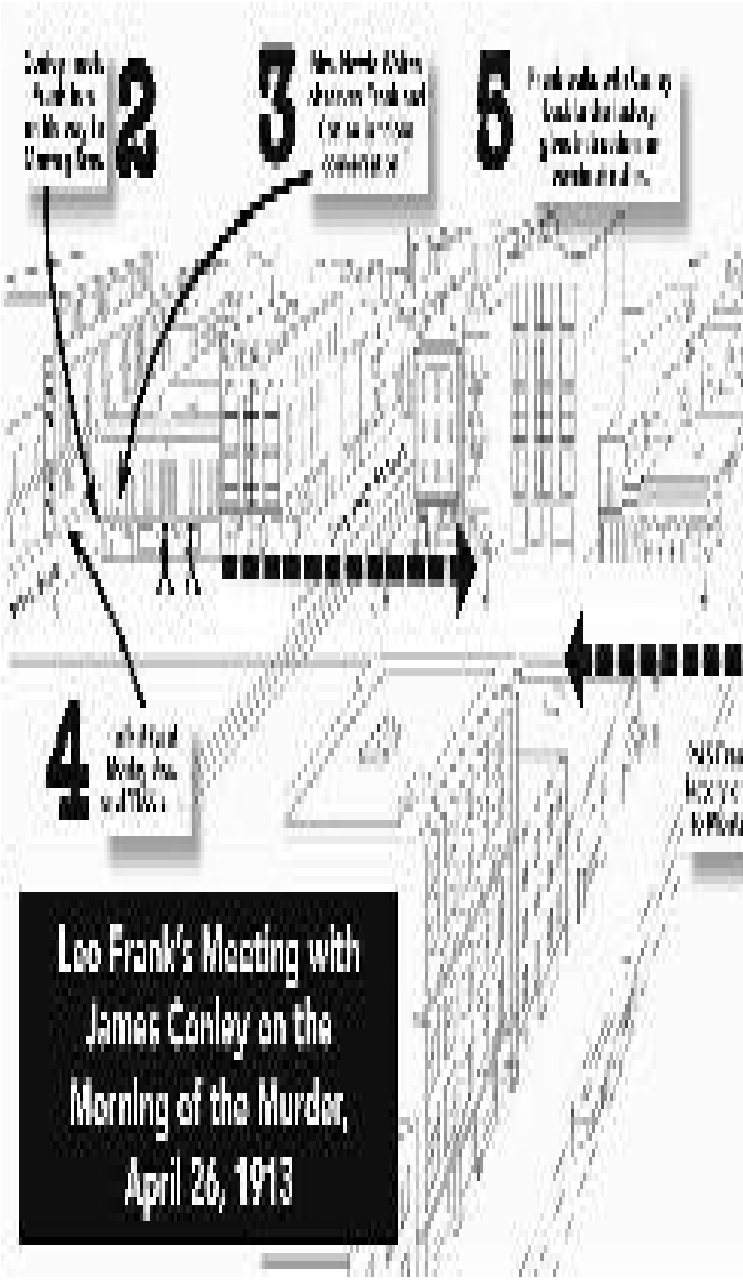
> young lady would be up on the second floor chatting, I don't know what they were doing. He only told me they wanted to chat. When young ladies would come there, I would sit down at the first floor and watch the door for him. I couldn't exactly tell how many times I have watched the door for him previous to April 26th, it has been several times that I watched for him. I don't know who would be there when I watched for him, but there would be another young man, another young lady during the time I was at the door. A lady for him and one for Mr. Frank.[195]

Conley then outlines his assignment at the factory on the day of Mary Phagan's murder:

> When we got to the factory we both went on the inside, and Mr. Frank stopped me at the door and when he stopped me at the door he put his hand on the door and turned the door and says: "You see, you turn the knob just like this and there can't nobody come in from the outside," and I says, "All right," and I walked back to a little box back there by the trash barrel. He told me to push the box up against the trash barrel and sit on it, and he says, "Now, there will be a young lady up here after awhile, and me and her are going to chat a little." And he says, "Now, when the lady comes, I will stomp like I did before," and he says, "That will be the lady, and you go and shut the door." And I says, "All right, sir." And he says, "Now, when I whistle I will be

> through, so you can go and unlock the door and you come upstairs to my office then like you were going to borrow some money [from] me and that will give the young lady time to get out." I says, "All right, I will do just as you say," and I did as he said.
>
> Mr. Frank hit me a little blow on my chest and says, "Now, whatever you do, don't let Mr. Darley [personnel manager] see you." I says, "All right, I won't let him see me." Then Mr. Frank went upstairs and he said, "Remember to keep your eyes open," and I says, "All right, I will, Mr. Frank." And I sat there on the box and that was the last I seen of Mr. Frank until up in the day sometime.[196]

Conley then told of what he had witnessed while sitting in the first-floor stairwell: the people who went up and down the staircase, the details of what they wore and what they did. He watched Mary Phagan enter the factory door and go up the stairs to Frank's office. Conley told of the events immediately preceding the murder:



Mary Phagan Enters • The next person

> that I saw was Miss Mary Perkins,[197] that's what I call her, this lady that is dead, I don't know her name. After she went upstairs I heard her footsteps going towards the office and after she went in the office, I heard two people walking out of the office and going like they were coming down the steps, but they didn't come down the steps, they went back towards the metal department. After they went back there, I heard the lady scream, then I didn't hear no more.
>
> **Monteen Stover Enters** • And the next person I saw coming in there was Miss Monteen Stover. She had on a pair of tennis shoes and a rain coat. She stayed there a pretty good while, it wasn't so very long either. She came back down the steps and left. After she came back down the steps and left, I heard somebody from the metal department come running [from] back there upstairs, on their tiptoes, then I heard somebody tiptoeing back towards the metal department. After that I kind of dozed off and went to sleep.

And then Conley describes how a distraught Leo Frank confessed to him about having killed Mary Phagan:

> **Leo Frank Panics** • Next thing I knew Mr. Frank was up over my head stamping and then I went and locked the door, and sat on the box a little while, and the next thing I heard was Mr. Frank whistling. I don't know how many minutes it was

after that I heard him whistle. When I heard him whistling I went and unlocked the door just like he said, and went on up the steps. Mr. Frank was standing up there at the top of the steps and shivering and trembling and rubbing his hands like this. He had a little rope in his hands—a long wide piece of cord. His eyes were large and they looked right funny. He looked funny out of his eyes. His face was red. Yes, he had a cord in his hands just like this here cord.

Frank Confesses the Murder to Conley • After I got up to the top of the steps, he asked me, "Did you see that little girl who passed here just a while ago?" and I told him I saw one come along there and she come back again, and then I saw another one come along there and she hasn't come back down, and he says, "Well, that one you say didn't come back down, she came into my office a while ago and wanted to know something about her work in my office and I went back there to see if the little girl's work had come, and I wanted to be with the little girl, and she refused me, and I struck her and I guess I struck her too hard and she fell and hit her head against something, and I don't know how bad she got hurt."[198]

Conley recounted several of Frank's trysts that he had witnessed. Then Conley resumes his account of finding the body of Mary Phagan:

Frank Orders Cover-Up • He asked me if

I wouldn't go back there and bring her up so that he could put her somewhere. And he said to hurry, that there would be money in it for me. When I came back there, I found the lady lying flat on her back with a rope around her neck. The cloth was also tied around her neck and part of it was under her head like to catch blood. I noticed the clock after I went back there and found the lady was dead and came back and told him. The clock was four minutes to one. She was dead when I went back there and I came back and told Mr. Frank the girl was dead and he said "Sh-Sh!" He told me to go back there by the cotton box, get a piece of cloth, put it around her and bring her up…

Moving the Body of Mary Phagan • The girl was lying flat on her back and her hands were out this way. I put both of her hands down easily, and rolled her up in the cloth and taken the cloth and tied her up, and started to pick her up, and I looked back a little distance and saw her hat and a piece of ribbon laying down and her slippers and I taken them and put them all in the cloth and I ran my right arm through the cloth and tried to bring it up on my shoulder. The cloth was tied just like a person that was going to give out clothes on Monday, they get the clothes and put them on the inside of a sheet and take each corner and tie the four corners together, and I run my right arm through the cloth after I tied it that way and went to put it on my shoulder,

and I found I couldn't get it on my shoulder, it was heavy and I carried it on my arm the best I could, and when I got away from the little dressing room that was in the metal department, I let her fall, and I was scared and I kind of jumped, and I said, "Mr. Frank, you will have to help me with this girl, she is heavy," and he come and caught her by the feet and I laid hold of her by the shoulders, and when we got her that way I was backing [up] and Mr. Frank had her by the feet, and Mr. Frank kind of put her on me[.]

Taking Mary Phagan to the Basement • [H]e was nervous and trembling, and after we got up a piece from where we got her at, he let her feet drop and then he picked her up and we went on to the elevator, and he pulled down on one of the cords and the elevator wouldn't go. And he said, "Wait, let me go in the office and get the key," and he went in the office and got the key and come back and unlocked the switchboard and the elevator went down to the basement, and we carried her out and I opened the cloth and rolled her out there on the floor. And Mr. Frank turned around and went on up the ladder, and I noticed her hat and slipper and piece of ribbon and I said, "Mr. Frank, what am I going to do with these things?" And he said, "Just leave them right there," and I taken the things and pitches them over in front of the boiler[.]

Back to Frank's 2nd-Floor Office •

> [A]nd after Mr. Frank had left I goes on over to the elevator and he said, "Come on up and I will catch you on the first floor," and I got on the elevator and started it to the first floor, and Mr. Frank was running up there. He didn't give me time to stop the elevator, he was so nervous and trembly, and before the elevator got to the top of the first floor Mr. Frank made the first step onto the elevator and by the elevator being a little down like that, he stepped down on it and hit me quite a blow right over about my chest and that jammed me up against the elevator[. A]nd when we got near the second floor he tried to step off before it got to the floor and his foot caught on the second floor as he was stepping off and that made him stumble and he fell back sort of against me, and he goes on and takes the keys back to his office and leaves the box unlocked. I followed him into his private office and I sat down and he commenced to rubbing his hands and began to rub back his hair and after awhile he got up and said, "Jim," and I didn't say nothing…[199]

By this point, James Conley had established a logical murder scenario and timeline that corroborated key witnesses and contextualized the physical evidence. The jurors were kept at the edge of their seats and strained to take in every word, every inflection, every pause, every nuance. The courtroom audience was equally captivated and convinced that, for the first time, they were hearing the truth of Mary Phagan's murder. Conley was able to present an account of the tragedy and give it life

apart from his own persona, such that even if Frank's lawyers destroyed his personal character, his story was strong enough to stand on its own merits. Leo Frank was in a position never seen in the South—a white man on the defensive. And yet there was more to come.

A Bump in the Road? The Wardrobe Incident

Though rock solid at its core, Conley's story was yet frayed around the edges. Critics charged that he seemed to forget some important points and that he evaded others. They target an odd element of his testimony that has come to be known as the wardrobe incident, which he says occurred in Frank's office after returning from moving the body of Mary Phagan to the basement. Conley's accusers and critics use the episode to invalidate his timeline and as "proof" that his entire testimony is an elaborate invention. It is the only section that seems to be impeached by the testimony of the women involved. Here is how Conley described it on the witness stand:

> [A]nd all at once he [Frank] happened to look out of the door and there was somebody coming, and he said, "My God, here is Emma Clarke and Corinthia Hall," and he said, "Come over here Jim, I have got to put you in this wardrobe [large wood cabinet], and he put me in this wardrobe, and I stayed there a good while and they come in there and I heard them go out, and Mr. Frank come there and said, "You are in a tight place," and I

> said “Yes,” and he said “You done very well.” So after they went out and he had stepped in the hall and had come back he let me out of the wardrobe, and he said “You sit down,” and I went and sat down, and Mr. Frank sat down…

What’s interesting about this portion of Conley’s narrative is that it is entirely unnecessary to the storyline of the murder. If it were not included, it would have no effect positive or negative on the murder timeline. Yet Conley includes the episode in two of his four affidavits and in his court testimony.

By Conley’s timeline this occurred after the murder, but the women he named—Emma Clarke and Corinthia Hall—clearly had arrived and departed well *before* Mary Phagan arrived at the factory.[200] It is an odd feature of his story if only because it presents an easy opportunity for exposure—a true “gotcha” moment. Certainly, if Conley were trained or prepped by the police and prosecutors to give his testimony, as has been charged, this portion would never have been included in an otherwise convincing story. So why did Conley continue to repeat this “wardrobe incident” whenever he spoke of the case?

If one follows Conley’s description, he and Frank had just returned to Frank’s second-floor office after concealing the body in the basement. Frank at that moment would have understood that the only living witness to his crime was “the negro Conley.” In his panicked assessment could Frank have understood what any murder mystery reader understands—that to escape undetected all witnesses must be silenced, or even killed? Although he vacillates slightly on what exactly he *heard*, in none of Conley’s accounts does he ever

claim to have ever *seen* the two visitors. He is reacting only to Frank's *claim* that they were approaching. He then gets in the cabinet and is left in an extremely uncomfortable, hot and sweating condition, and because of the wardrobe's latch mechanism Conley is able to escape its coffin-like confines only when Frank lets him out.

While locked in the wardrobe, Conley said, he could not hear the women talking and surmises that Frank must have taken them to an upper floor. In Conley's third sworn affidavit to police on May 28, 1913, he remembers the incident, but this time he says: "I just heard Miss Emma say, 'Good morning, Mr. Frank, are you alone?' and Mr. Frank said 'Yes.'"

But Conley immediately follows that claim with an apparent contradiction about what he had *actually* heard:

> …and I couldn't hear them say nothing else, but I didn't know it was Miss Corinthia Hall *until Mr. Frank spoke and said it was*, but I heard Miss Emma's voice; they didn't stay there long, until they were gone. *I didn't hear them….I couldn't hear them talking*, only I heard Miss Emma say, "Good morning." If they had been talking loud I could have heard them, but if they were talking low I couldn't. [Emphasis ours][201]

Though he insists that the wardrobe incident occurred, Conley is less confident about *what* exactly he heard while locked in the cabinet. Did Frank say that he saw the two women approaching to trick Conley into jumping—willingly—into his own grave? Conley himself seems conflicted about

that aspect of the murder case. Could it have been Leo Frank pretending to be speaking with the women and answering aloud as if he were having a conversation with them? Could Frank have been feminizing his voice and mimicking the women's earlier morning visit? Policeman W.W. Rogers did report that Frank's voice sounded "ladylike," "somewhat like a woman's."[202]

At the time of this incident Mrs. White had already left for the day (and had seen Conley on her way down the front stairs)—she believed it to be about 12:50.[203] Frank's own testimony confirms that his whole purpose in asking her to leave was to lock the factory building's outside door.[204] So a surprise entry by Hall and Clarke as claimed by Frank would have been impossible.[205]

This feigned visit is possibly the very moment when Frank considered the desperate choices he faced. If he carried the scheme through and suffocated Conley, how would he dispose of *that* body?[206] Phagan's body was so awkwardly heavy that it required two men to move it, and Conley's would be considerably heavier for the slightly built superintendent to handle alone. How would he explain the disappearance of *two* people on his watch? What if Conley figured out his boss's plan and broke out of the cabinet? Was Conley describing the wardrobe incident in this interview with a *Constitution* reporter?

> I didn't get scared of Mr. Frank but once, and I don't want to tell what caused me to be 'fraid then. I went on ahead with the body like he told me to, 'cause I had been drinking and wasn't exactly in my right mind. Mr. Frank's looks kinder scared me, though, 'cause he looked just

> for the world like somebody that was crazy. I never saw a man look like he did, and I never want to see another look like that again.[207]

The panicked calculations of a frantic murderer probably prompted Frank to think of a better option: bribe Conley into silence[208] and pin the *one* body on the unsuspecting watchman Newt Lee, due at the factory later that evening.

The Murder Notes, Bribery, and Burning the Body

After recounting the wardrobe incident, Conley then described how the handwritten notes found next to Mary Phagan's body were created:

> …[A]nd then [Frank] said, "Can you write?" and I said, "Yes, sir, a little bit," and he taken his pencil to fix up some notes. I was willing to do anything to help Mr. Frank because he was a white man and my superintendent, and he sat down and I sat down at the table and Mr. Frank dictated the notes to me. Whatever it was it didn't seem to suit him, and he told me to turn over and write again, and I turned the paper and wrote again, and when I done that he told me to turn over again and I turned over again and wrote on the next page there, and he looked at that and kind of liked it and he said that was all right.

> Then he reached over and got another piece of paper, a green piece, and told me what to write. He took it and laid it on his desk and looked at me smiling and rubbing his hands, and then he pulled out a nice little roll of greenbacks, and he said, "Here is $200," and I taken the money and looked at it a little bit and I said, "Mr. Frank, don't you pay another dollar for that watch man [jeweler], because I will pay him myself," and he said, "All right, I don't see what you want to buy a watch for either. That big fat wife of mine wanted me to buy an automobile and I wouldn't do it."

Two of the four notes Conley said he composed were found next to the body of Mary Phagan, and they appear to have been intended to place the blame for the crime on the Black night watchman. Frank then ordered that Conley burn Mary Phagan's body:

> And after awhile Mr. Frank looked at me and said, "You go down there in the basement and you take a lot of trash and burn that package that's in front of the furnace," and I told him all right. But I was afraid to go down there by myself, and Mr. Frank wouldn't go down there with me. He said, "There's no need of my going down there." And I said, "Mr. Frank, you are a white man and you done it, and I am not going down there and burn that myself."
>
> He looked at me then kind of frightened and he said, "Let me see that money,"

> and he took the money back and put it back in his pocket. And I said, “Is this the way you do things?” And he said, “You keep your mouth shut, that is all right.” And Mr. Frank turned around in his chair and looked at the money and he looked back at me and folded his hands and looked up and said, “Why should I hang? I have wealthy people in Brooklyn.”
>
> And he looked down when he said that, and I looked up at him, and he was looking up at the ceiling, and I said, ”Mr. Frank what about me?” And he said, “That’s all right, don’t you worry about this thing, you just come back to work Monday like you don’t know anything, and keep your mouth shut. If you get caught I will get you out on bond and send you away.”
>
> And he said, “Can you come back this evening and do it?” And I said, “Yes, that I was coming to get my money.” He said, “Well, I am going home to get dinner and you come back here in about forty minutes and I will fix the money.” And I said, “How will I get in?” and he said, “There will be a place for you to get in all right, but if you are not coming back let me know, and I will take those things [murder notes] and put them down with the body.” And I said, “All right, I will be back in about forty minutes.”

Conley said he then left the factory and went to a bar, had a beer with a patron, interacted with several people, and went home and slept until 6:30

that evening.[209] Conley then explained his first subsequent rendezvous with Frank three days later at the factory:

> I saw him next time on Tuesday on the fourth floor when I was sweeping. He walked up and he said, "Now remember, keep your mouth shut." And I said, "All right," and he said, "If you'd come back on Saturday and done what I told you to do with it down there, there wouldn't have been no trouble."[210]

Leo Frank's Sexual Catastrophe

Frank had about as much chance as crippled grasshoppers in a pen of doves.[211]

—

Luther
Z.
Rosser

To the courtroom observers and the jury of twelve men Conley's story finally made sense of the murder and severely restricted the defense's courtroom options. To effectively refute any of Conley's story would require that Leo Frank himself be placed on the stand, since nearly all of what Conley described took place in Frank's presence.

The risk was obvious: it would open Frank up to the kind of blistering cross-examination under oath that he and his attorneys had been assiduously avoiding. If Frank refused to confront "the negro Conley" in a jailhouse (even with his lawyer present), he certainly wanted no part of the state's top prosecutors confronting him in open court with a long, long list of unexplained facts and behaviors. That placed Leo Frank's defenders in a position where they had to de-emphasize the details, promote Frank's superior social standing, and appeal to the twelve white jurors on the basis of that holiest of holy American traditions—white supremacy.

There was no one better prepared for that task than Georgia's own legal legend Luther Z. Rosser. When Rosser sidled up to his black *prey*, Leo Frank and his supporters *prayed* that it was only a matter of time before Conley collapsed under the anticipated battering. Rosser eased into his task with a preliminary spelling test to showcase Conley's intellectual deficiencies:

> Q. Can you read newspapers? —A. Not much, I read them some.
>
> Q. Do you read them often? —A. I pick them up now and then.
>
> Q. What do you read? —A. Little words like "this" and "that."
>
> Q. They are pretty common words in the newspapers, aren't they? —A. Yes.
>
> Q. Can you spell "school?" —A. Yes.

Q. Color? —A. No.

Q. Shirt? —A. Yes.

Q. Cat? —A. Yes.

Q. Do you spell it with a “k” or with a “c?” —A. With a “k.”

Q. Can you spell “mother?” —A. No.

Q. Can you spell “papa?” —A. Yes.

Q. How? —A. P-a-p-a.

Q. Can you spell “day?”—A. Yes.

Q. “Daylight?”—A. Yes.

Q. Can you spell “beer?” —A. Yes.

Q. Can you spell whisky?” —A. No.

Q. Look at this picture and tell me if you can read any of these words? —A. No.

Q. Do you know your figures? —A. Yes.

Q. You know a good deal more about figures than you do about spelling, don’t you? —A. Yes. I can count better than I can spell.

Q. Then you are better at figuring than you are at writing? —A. Yes; I am better at counting.

> Q. Well, isn't figuring counting? —A. I don't know.
>
> Q. You don't know you are 27 years old, do you, Jim? —A. Yes, sir, that's what my mother said.[212]

The *Atlanta Constitution's* courtroom reporter described the scene:

> Jim's face showed that he could not see what in the world a great big white man with the knowledge of Luther Rosser could want to take up the time in court to go into a spelling bee with him for.… The white man and the darkey had reached a perfect understanding, such as a white man and a negro have when they are raised together on the same big plantation.[213]

But that was as far as Rosser was able to "break down" the witness.

Conley's vocabulary may have been limited, but his powers of recall were exceptional—and his account of the murder remained unshaken. He soon forced Rosser into an agitated retreat. The defense attorney made a mystifying series of blunders that would place his client deeper and deeper in irreversible legal jeopardy. Rosser's line of questioning focused the witness on the role he had claimed to play as "look out" while Frank committed infidelities at the factory. And to everyone's astonishment Rosser walked Conley directly into revealing the most damaging aspects of Leo Frank's character. He asked his witness "About the next time [you watched for Frank]?" "What time of day?" "Did you inquire who [the woman]

was?" "The next time was Thanksgiving, wasn't it?" "Where were you when she arrived?" "What time did the woman come?" "Did you know her?"

Atlanta stood aghast at the spectacle as Conley used every opening to relay in mortifying detail five other instances when he had acted as Frank's lookout while Frank engaged in sexual misconduct with women other than his wife.[214]

The *Atlanta Constitution*'s court reporter seemed bewildered by the famed lawyer's tactic: "He was apparently helping Jim Conley to tell all the damaging evidence he knew on the man whom he accuses of the horrible crime."[215] And just as prosecutors had hoped, Conley uncovered a pattern of *planned* sexual misbehavior by Frank at the factory that made the state's premeditated liaison motive far more plausible in the jurors' minds. After the noon recess, the judge felt that the testimony was of such a sleazy nature that he cleared the courtroom of all 150 women and teenagers.[216] Conley proceeded to describe sexual acts he had witnessed while being Leo Frank's lookout:

> [Frank said,] "Of course you know I ain't built like other men." The reason he said that was, I had seen him in a position I haven't seen any other man that has got children. I have seen him in the office two or three times before Thanksgiving and a lady was in his office, and she was sitting down in a chair (and she had her clothes up to here, and he was down on his knees, and she had her hands on Mr. Frank. I have seen him another time there in the packing room with a young lady lying on the table, she was on the edge of the table when I saw her).[217]

Conley impressively one-upped the mighty barrister at every turn and in one instance entirely turned the tables on him. When asked about one of Frank's "chatting" partners—"Do you know who she was?"—Conley rejoined, "I don't know her name, but I know her face, *and I know where she lives*." Rosser should have been seeking just such an opportunity to trap Conley in a lie. Instead, Rosser beat a fast retreat and changed the subject. It had to be a telling moment for the jury.[218]

With Frank's dirty laundry thoroughly aired, Conley was yet able to establish another extremely damaging fact through the bungling barrister Luther Z. Rosser. He asked Conley a simple question:

> "Did you know old man Newt Lee?"
>
> Conley: "No, I didn't know Newt Lee. I heard them say there was a negro night watchman, but I never did know that he was a negro."[219]

And with that brow-raising statement the jury was now free to consider Leo Frank the lone guilty party. For how could Conley have written murder notes describing a man he had never seen? The notes described the lone murderer as the "long tall negro black…night witch," which even Newt Lee took to mean "night watch" and believed to be physically describing him. Frank knew them both, knew their work schedules, and could physically describe them both—knowledge required in order for the murder notes' message to be believed. Had Rosser not asked this question of Conley, the assumption that the small group of Black employees at the factory all knew one another would have been left undisturbed in the minds of the jury. And with that, Rosser again outwitted himself and

pushed his client ever closer to the gallows.[220]

But that was not the worst of it. With the murder schematically illustrated for the jurors, Prosecutor Dorsey moved quickly to undergird his "negro testimony" with the requisite white support. No sooner did Conley leave the witness stand than a procession of Frank's white female employees testified about their negative personal encounters with their boss—a man they all agreed was possessed of a "bad character." And they were as forceful as Conley in their allegations, which seemed to verify the persistent rumor that "there was a brothel operating in the basement of the factory."

Frank's lawyers did manage to gain a favorable ruling from Judge Roan that limited the scope and effect of the women's courtroom testimonies,[221] but many of them elaborated unhesitatingly to investigators and to the press, before and after the trial.[222]

When she tried to visit her sister-in-law at the factory, and obtain her pay, Nellie Pettis testified that Frank "told me I couldn't see her until I saw him first." She told how Frank had leered at her, winked at her, pulled a box of money from his desk, and finally asked, "What about it?" She left his office and his employ, telling Frank to "Go to hell!" As it had with Mary Phagan, this incident occurred when Pettis was seeking wages, suggesting that Frank saw the weekly payday routine as an opportunity to pressure the young girls into sexual encounters. Later, Frank's detectives and lawyers pushed Pettis to change her testimony, but she refused.

And the charges were unrelenting, and all came, significantly, from white Southern girls about the same age and social class as the murder victim.

Myrtice Cato swore that she had seen Frank and factory employee Rebecca Carson repeatedly go into the ladies' dressing room and remain there for fifteen or twenty minutes. She concluded with a foreboding, "That ain't all I know…and that ain't all I saw either." Maggie Nash (formerly Griffin) confirmed Cato's story and later swore that one of Frank's hired agents had pressured her to retract her negative assessment of Frank. She told the man he might try one hundred years but she would never do it.[223]

Former employee Dewey Hewell travelled from Cincinnati to testify: "I have seen Mr. Frank talk to Mary Phagan two or three times a day," even putting "his hand on her shoulder" and calling her "Mary."[224] Mamie Edmunds (formerly Kitchens):

> I was in the dressing room with Miss Irene Jackson when she was undressed. Mr. Frank opened the door, stuck his head inside. He did not knock. He just stood there and laughed. Miss Jackson said, "Well, we are dressing, blame it," and then he shut the door.[225]

Nellie Wood said at the coroner's inquest that

Frank had made an indecent proposal to her:

> He said, “You know, I am not like other men.” And drawing his chair closer up to me, says, “I don’t think you understand me,” and put his hands on me: and I resisted, and got up and opened the door.[226]

Under questioning at the coroner’s hearing she went further:

> Q. “Do you know Leo Frank?”
>
> A. “I worked for him two days.”
>
> Q. “Did you observe any misconduct on his part?”
>
> A. “Well, his actions didn’t suit me. He’d come around and put his hands on me, when such conduct was entirely uncalled for.”
>
> Q. “Is that all he did?”
>
> A. “No. He asked me one day to come into his office, saying that he wanted to talk to me. He tried to close the door, but I wouldn’t let him. He got too familiar by getting so close to me. He also put his hands on me.”
>
> Q. “Where did he put his hands?”
>
> A. “He barely touched my breast. He was subtle with his approaches, and tried to pretend that he was joking, but I was too

wary for such as that."

Q. "Did he try further familiarities?"

A. "Yes."

Q. "When did this happen?"

A. "Two years ago."

Q. "What did you tell him when you left his employ?"

A. "I just quit, telling him that it didn't suit me."[227]

Former factory employee Thomas Blackstock had witnessed Frank "picking on" factory girls a half dozen times and had heard other complaints around the factory.[228] Ruth Robinson, who had known Mary Phagan as a little girl, testified:

> Mary had worked there a good, long time, and understood her business….Sometimes Frank would remain at Mary's machine fifteen or twenty minutes. I never saw him show that much attention to the work of the other girls on that floor. I have seen Frank, in showing Mary about her work, take hold of her hands, and hold them. Frank's visits to Mary, and talks with her, and assistance given her, became more and more frequent….The very last day I worked there, I saw Frank talking to Mary. I heard him call her "Mary."

She further testified that "Frank undertook to

give me seven dollars, when he knew I was not entitled to the money, and he endeavored to have an assignation with me, some time the next week. This occurred in his office."[229]

The *Constitution* characterized the testimony of 16-year-old Will E. Turner:

> [H]e had seen Frank in conversation with Mary Phagan in the metal room; that the girl was retreating from Frank and Frank was following her. Frank had said, according to the witness, that he was the superintendent of the factory and wanted to talk to her. The girl had replied that she had some work to do and retreated from him.[230]

With every witness, Frank's initial claim not to know Mary Phagan seemed more and more like the evasions of a guilty man. Myrtice Cato, Maggie Griffin, C. D. Donegan, H. R. Johnson, Marie Karst, Nellie Pettis, Mary Davis, Mary E. Wallace, Estelle Winkle, Carrie Smith—all witnesses *for the defendant*—swore similarly "that Leo M. Frank's character for lasciviousness was bad."[231]

Mary's older sister Ollie reported to the Pinkertons what Mary had confided to her:

> Mary had told her about watching the men and women employees of the Pencil Factory during the dinner hour and stated that Mary had seen men and women hugging and kissing each other in the factory and that couples would try to hi[de] themselves behind boxes, and that Mary had looked through cracks and had seen couples committing fornication, and

> had told her about it on several different occasions.[232]

A friend of Mary Phagan's named George Epps told investigators that Mary had expressed to him her fears of Frank's improper advances.[233] Mary's stepfather, J. W. Coleman, revealed: "[Mary] had often said that things went on at the factory that were not nice, and that some of the people there tried to get fresh. 'She told most of those stories to her mother.'"[234] Thirteen-year-old Grace Hicks claimed that Mary had complained to her that

> Leo M. Frank had put his arm around her, and asked Mary if she wanted to take a joy ride of Heaven, and that Mary Phagan had asked Frank, 'How?' to which Frank replied that he would show her some day.[235]

Two men, a Grady Kennington and a Mr. V.F. Schen(c)k, claimed that they often saw men and women going into the pencil factory after dark. A man named Mendenhall said that he had heard from a few men working at the factory about "several" girl employees that Frank had been "familiar with" but "they were afraid to testify against Mr. Frank."[236] Former employee Paul Whitaker told investigators that he often noticed that when Frank was talking to female employees "it seemed to me that [Frank] rubbed up against them a little too much."[237]

A white man named C. Brutus Dalton came forward and testified in support of Conley's story, claiming that he was Frank's co-conspirator in the sexual goings-on at the factory. Under oath he said:

> I have on several visits to Leo M. Frank's

> office seen Frank with girls in his office, and I have seen Frank play with them, hug them, kiss them and pinch them….I saw Frank on two or three occasions take a girl and go to the back of the room where the dressing room is. On one occasion, Frank had six bottles of beer and I carried three more bottles to his office....In regard to the cot in the basement, I know that Leo Frank knew about it, because I have heard him speak of it.…Conley was sitting at the front door.[238]

He said that a former pencil factory worker named Daisy Hopkins had introduced him to Leo Frank and that they all had engaged in immoral behavior. Intending no pun at all, the *Constitution* called Dalton's testimony "remarkably frank."[239] Not all of these unseemly revelations spilled out in the trial, but enough had been disclosed before trial to make the summer of 1913 an extremely hot one for Leo Frank.

Despite what appeared to be an insurmountable wall of evidence that supported the testimony of Jim Conley, Frank nevertheless had reason to feel hopeful. If it could be shown that the testimony of the young girls was in some way corrupted or coached, the charge of sexual deviancy could be shown to be mere vilification. Certainly, Luther Rosser and Reuben Arnold—two of the greatest cross-examiners in the South—would let none of the alleged seedy pencil factory sexcapades go unanswered.

But when their chance came to have at the young women to redeem their client's character, they simply let all the accusations ride

unchallenged! “Frank’s lawyers sat on their hands,” wrote Steve Oney,[240] leaving their client naked in front of an utterly dumbfounded jury. Their silence on this most pivotal issue—an issue *Frank’s attorneys themselves* opened up for the court’s consideration—could only be taken as verification of the worst of Frank’s behavior.[241]

The defense’s only response to the veritable mudslide was to move to have all such testimony stricken from the record.[242] Said Rosser:

> The fact that Frank might have been frequently guilty of immorality could not be held against him [or held] as evidence of bad character and reputation….Lasciviousness is not one of the character traits involved in a case of murder…[243]

And with that, Frank’s attorneys conceded that their client had engaged in sexually deviant behavior. Dorsey’s promise to present “a fearful mass of testimony…to prove the perversion of the accused” forced Frank’s lawyers into full retreat.[244] Reuben Arnold sheepishly argued to the jury, “We are not trying this case on whether you or I or Frank had been perfect in the past….Let him who is without sin cast the first stone.”[245] Furthermore, he said, Frank’s behavior was

> a sign that we are getting more broad-minded…[D]eliver me from one of these prudish fellows that never looks at a girl *and never puts his hands on her*….He’s the kind that I wouldn’t trust behind the door.[246]

The lack of *any* refutation of these white

women's testimonies further sensationalized the trial and kept it focused on the sexual nature of the crime. Worse for the defendant, the flood of charges of inappropriate sexual conduct all had been directed at Frank—*and none at Conley (or Newt Lee or any of the other Black employees)*. And Frank's own hired detectives, the Pinkertons, specifically included in their report that "Mary Phagan had never mentioned any of the negro employees at the factory being familiar towards her or taking any liberties."[247]

More Charges Surface • Other allegations had surfaced that did not make it to trial but nonetheless circulated widely. A white rooming-house owner named Nina Formby came forward and swore that Frank was a regular customer of hers and that he had called her several times on the night of the murder in a panicked state seeking a private place for something she knew not what. She claimed in her affidavit and in interviews that Frank even threatened her life when she refused to assist him. She later recanted the story in the press, purportedly claiming that police had "browbeaten" her and "plied her with whiskey" until she agreed to this story.[248] But Formby's original affidavit seemed far too detailed to be entirely concocted, and Chief Lanford strongly suggested that he had corroborating evidence from the telephone company's switchboard operators on duty that night.[249] The *Washington Post* reported that Formby "charged that friends of Frank offered her a large sum to leave Atlanta. She said that when she refused the money threats were made."[250]

And on the same day Formby came forward, a "special policeman," Robert P. House, positively identified Leo Frank as the man he had previously apprehended in the woods with a young girl, intent

on an "immoral purpose." He said he had "frequently" seen Frank entering the private wooded area with a young girl, and this particular time he followed him to a "swampy section… concealed from view by trees and shrubbery."[251]

The Frank team was overwhelmed by and ill-equipped to deal with the prosecution's exposure of Frank's hidden lifestyle. If race is the central fixation of Southern white society, sex is a very close second.[252] As more and more of the clandestine sexual aspects of Frank's life were revealed, it seemed certain that if not murder, Frank had committed yet another serious Georgia crime—*sodomy*—which at that time carried a penalty of life imprisonment.[253] Obviously, this compounded the challenges facing Frank's legal team.

Frank Fights Dirty

They say that nigger couldn't lie. Gentlemen, if there is any one thing that nigger can do it is to lie.[254]

—

Reuben Arnold, Leo Frank's attorney, closing argument

James "Jim" Conley effectively knitted together the hard facts with a story that struck Atlantans as the first believable explanation of Confederate Day's tragic events. The pieces of circumstantial evidence Prosecutor Dorsey had assembled now had a narrator—someone who could, and did, breathe life into the prosecution's theory of the crime. The parade of young white girls onto the witness stand added the mortar and had the subliminal effect of reminding everyone of the travails of murder victim Mary Phagan. Assistant Prosecutor Frank Hooper was brimming with confidence and promoting Conley as if he were managing a prize fighter:

> Mr. Rosser will go ahead and wear himself out, and Attorney Arnold will hurl questions at Conley until he, too, grows weary, and when it is all over the negro will still be there ready for more.[255]

The "negro's" steadfast adherence to the truth as he saw it, and his ability when pressed to produce ever more and convincing detail, forced Luther Rosser and Reuben Arnold to abandon any judicial decorum and commence a bare-knuckled racist brawl. Thus, for the first time, the Jewish defendant introduced open racial bigotry into the courtroom. Certainly, Conley's rendition had to be refuted, but the Frank team went much further than that. Conley became the channel through which Frank's enormous legal brigade would heap slanderous Hamitic invective upon the entire Black race. According to one writer, Luther Rosser's courtroom statements about Conley "were the most bigoted utterances made during the case."[256] The silver

medal most certainly belonged to Leo Frank's other attorney, Reuben Arnold.

And though he endured abuse and savage insults, the *Georgian* headline told it all: NEGRO'S MAIN STORY STILL UNSHAKEN. Another announced, "CONLEY STORY STANDS"; another proclaimed NEGRO COOL AND UNAFRAID DESPITE FIERCE ATTACK OF DEFENSE ON HIS STORY.[257] The *Atlanta Georgian* reporter wrote:

> If the story Conley tells IS a lie, then it is the most inhumanly devilish, the most cunningly clever, and the most amazingly sustained lie ever told in Georgia![258]

Said another reporter: "If so much as 5 percent of his story was true, it would suffice to convict Frank."[259] The general belief of Georgians was expressed by Governor John Slaton himself:

> It is hard to conceive that any man's power of fabrication of minute detail could reach that which Conley showed, unless it be the truth.[260]

It was, in the end, an "ingenious narrative," declared the *Atlanta Journal*:

> He [Conley] had every circumstance and feature of this story clear in his mind and not once during the sixteen and a half hours that he was in the witness chair did he admit that any portion of it was false, notwithstanding the terrific bombardment of questions hurled at him on cross-examination….But the question which presents itself most persistently is:

> "Could this illiterate negro have conceived and fitted together such a set of detailed circumstances without some foundation in fact?"[261]

The beleaguered defense attorneys countered by parading dozens of Jewish witnesses, some from Frank's college days who traveled hundreds of miles to testify to Frank's moral rectitude.[262] But none of them were able to address the specific allegations made by those who saw Frank on a daily basis in his own business environment.[263] Bible-toting Georgians had always held their Jewish neighbors in high regard,[264] and Frank's defense team played to that very fact; however, the sentimental advantage his Jewishness offered evaporated in front of a jury that was not so willing to overlook those uncontested sexual allegations. He could not overcome the simple fact that, as the *Georgian* put it, the only "[t]estimony pointing toward the innocence of Frank was that of Frank himself."[265]

The distressed testimony of Frank's young, white female employees had the effect of neutralizing the heavy racial overtones of the case. Their word confirmed and superseded that of "the negro's," numbing the advantage Frank hoped he would have in a Jim Crow courtroom. The B'nai B'rith president had counted on his ability to portray the sexual assault[266] and murder as a "negro crime," but with each successive witness testifying to Frank's *sexual* aggressiveness the defense's *racial* tactics looked less and less like a defense and more and more like an evasion.

Leo Frank's "Negro Testimony" & "Negro Crimes"

I was raised with niggers and know something about them. I do not know them as well as the police, perhaps, for they know them like no one else. But I know something about them.[267]

—

Luther
Z.
Rosser,
Leo
Frank's
attorney

It's a nigger crime, gentlemen; it's a nigger crime.[268]

—

Reuben
Arnold,
Leo
Frank's
attorney

Frank had been arrested and charged with the murder of Mary Phagan *before* Conley's explosive revelations came to light. But Frank's elite attorneys —Herbert Haas, Luther Rosser, and Reuben Arnold —made a calculated decision that their client's fate would hinge on an aggressive introduction of what would generations later become known as "the race card." This was not a difficult decision in the Deep South, where the deck itself contained nothing but race cards. So when the defenders of the B'nai B'rith president focused their sights squarely on *"the negro"* James Conley, it was a natural, even obvious, ploy.

In actuality, the racial targeting by the Frank forces began with their merciless scapegoating of Newt Lee, and, before that, with Frank himself when he composed the "murder notes," which were intended to lead police to a "long tall black negro." And by insisting that the murder occurred in the basement, where the factory's "negro toilet" was, Frank was implicitly connecting the crime to Black men. The Frank team wanted to capitalize on early reports like the one in the *Atlanta Georgian* about a week after the murder, titled "OLD POLICE REPORTER ANALYZES MYSTERY":

> **Public Suspected Negro**: It was perfectly clear on Sunday and Monday last that the public was willing to put the extraordinary act in the category known as "negro crimes," and the sentiment of the streets was that Lee was guilty or knew the guilty man....The Phagan case is not a "white man's crime," or if it is a white man's crime it is extraordinary and

most unusual.[269]

The Frank team relied on the Jewish defendant's status as a privileged white man in a racially divided and racially deluded society. Never before in the Jim Crow South had a Black man's testimony been accepted over that of a white man's—and certainly *never* in a trial of a white man.[270] Frank's attorneys seized upon the state's extraordinary blurring of the color line to make their stand. They looked beyond the murder of Mary Phagan and took the position that Frank's conviction would in fact undermine sacred Southern racial traditions and set in motion a racial upheaval far more significant than Frank's actual guilt or innocence.

Frank's team determined that the very nature of the two races would have to be juxtaposed—just as the 1925 Scopes trial would juxtapose monkey and man—in order to suggest the *impossibility* of a white man as the murderer of Mary Phagan. It was a blatant Jewish appeal to white race unity. For as one Leo Frank case historian wrote, "racial assumptions often acted as the glue that held southern society together."[271] And in pursuit of that profoundly racist stratagem Conley *and his race* became the subject and the focus of a bitter character assassination. It was a racist crusade that began in the courtroom and continued in the Jewish American press, and has been carried out for decades hence by pro-Frank historians, journalists, and activists.

Frank's defense, in every respect, was shaped to resemble another vital American judicial function in that time. The lynching of Black people was an integral part of American culture, largely because it had a unifying effect on the community of lynchers. The pure brutality of it seemed to revive a group

hunting instinct among the mobs of whites who participated in these culturally sanctioned human sacrifices. It served both a psychological and a political need to spill the blood of any Black "intruder" on white racial hegemony, and thus kept all Blacks terrorized and anchored to their designated place at the basement of American society. Frank's trial lawyers would try to arouse this anti-Black fervor in that Georgia courtroom and direct it against the Black "intruder" James Conley.

The first step was to remind Atlantans that White Supremacy was the supreme law of the land and a founding principle that was—*especially in this case*—getting dangerously frayed around the edges. Second, Leo Frank's lawyers reasserted, there was in fact, and should continue to be, a specific category of evidence known as "negro testimony." This *inferior* class of evidence had long been recognized in the Southern legal system for the express purpose of devaluing Black humanity in the eyes of the law.[272]

This was more than punitive "bigotry": it was in fact how American society financed itself and raised the standard of living for its white citizenry, especially for its wealthiest subgroup—Southern Jews.[273] Such a uniquely American "doctrine" provided a legal umbrella of protection for every manner of racial wickedness. Merchants could and did cheat Blacks at will; employers could and did refuse to pay them; bloody violence could be and was perpetrated against Blacks; land, homes, crops, labor, tools, mules could be and were taken from them[274]—all without any legal recourse for the Black victims, their testimony in any court completely null and void. This legal "doctrine" protected the white rapists of Black women and girls, whose resulting Black children could not sue

for inheritance from their white fathers. The repeal of this incredibly profitable link in the slave's chains —which is what Frank argued Conley's testimony represented—would usher in an entirely new and disastrous dynamic in race relations.[275] Rabbi Max Heller spoke for American Jews in their most prominent newspaper, the *American Israelite*:

> [O]ne finds it difficult to believe that an intelligent white jury would, unhesitatingly and unqualifiedly, find a verdict of capital punishment against a respectable man upon the virtually unsupported testimony of a low type of negro….One could not but feel, under the circumstances that one's faith in American manhood and American civilization would totter...[276]

Thus, "negro testimony" had to be dismissed out of hand—for no other reason than its dangerous potential to overturn the status quo. Luther Rosser spoke for his client Leo Frank at the retrial hearing:

> When has the word of an African been better than the word of one Anglo-Saxon woman[?]…The doctrine that an African's word is more to be relied upon than that of an Anglo-Saxon woman dies with this case.[277]

The *Constitution* recorded this part of Rosser's rant:

> They would rather believe the negro's word. They took it in preference and, in believing it, put the nasty brand of liar on a sweet, little white girl. Oh, how

> times have changed. I hope to God I die before they change any worse than this. …[A]nd these twelve good men… wrapped their arms lovingly and tenderly around this stinking black brute saying "we love you, Jim, we love you."[278]

And when whites provided damaging testimony, as did C.B. Dalton, Attorney Rosser performed the obligatory racial damage control:

> Here is this man Dalton, of the Anglo-Saxon race. Yes, gentlemen of the jury, he had a white face, but that was all. He was black within.[279]

Obviously, their arguing to exclude testimony by people with black skin put the Jews in the trickiest of moral predicaments. Just a few years into the future they would rally world outrage on their behalf against the very same alleged discriminations in Nazi Germany. Yet here, in an *American* courtroom, it was *Jews* who sought to reinforce those very same racist policies for their own behalf. Frank himself voiced his belief that not only was James Conley a liar, but he came from "a lying race" of people:

> Here is a negro, not alone with the shiftless and lying habits of an element of his race, that is common to the South… [280]

What's more, Frank's attempts to reestablish the doctrine of "negro testimony" for his Southern interrogators only laid the foundation from which to advance his even more insidious bigotry: the canard that there existed a specific category of

transgressions called "negro *crimes*"—a category into which the murder of Mary Phagan fit neatly and exclusively. A May 31st *Atlanta Constitution* front-page headline, unmistakable in its clear reference to Frank's own thinking, announced: "**Mary Phagan's Murder Was Work of a Negro Declares Leo M. Frank**." It quoted the B'nai B'rith leader:

> No white man killed Mary Phagan. It's a negro's crime, through and through. No man with common sense would even suspect I did it.[281]

Frank's attorney Reuben Arnold followed suit, drawing tidy race and class distinctions:

> Why go further than this black wretch there by the elevator shaft, fired with liquor, fired with lust and crazy for money? Why[,] they rob and ravish every day in the most peculiar and shocking way. But this man's race (pointing to Frank) don't kill; they are not a violent race. Some of them may be immoral but they go no further than that.[282]

Clearly, he continued, "the murder was the unreasoning crime of a negro."[283] Arnold declared:

> I want to call your attention later to the class of their witnesses and the class of ours….The crime isn't an act of a civilized man—it's the crime of a cannibal, a man-eater….This crime is the hideous act of a negro who would ravish a ten-year-old girl the same as he would

> ravish a woman of years. It isn't a white man's crime. It's the crime of a beast—a low, savage beast![284]

With his Jewish client looking on approvingly, Arnold warned his audience of white male jurors about the dangers of Black men:

> [T]here are a thousand of them in Atlanta who would assault a white woman if they had the chance and knew they wouldn't get caught.[285]

This approach was calculated to capitalize on the fervor that was then sweeping through the nation—the fear of "negro domination." Candidates for titles and positions big and small jousted with each other over who was best qualified to enforce negro inferiority in all affairs, with particular focus on weakening Black voting power. The newspapers were filled with chest-thumping whites waving their *curricula vitae* proving who was the quickest to tie a noose around Black political and economic progress. Arnold and Rosser easily worked that angle into their defense of Leo Frank.

Frank's advocates reached for yet a third distinct layer of race treachery: by the State of Georgia's acceptance of Black testimony, they maintained, it turned the Frank case from a simple criminal prosecution to an "anti-Semitic" *persecution*. Reuben Arnold:

> I'll tell you right now, if Frank hadn't been a Jew, there would never have been any prosecution against him. I'm asking my own people to turn him loose, asking them to do justice to a Jew, and I'm not a Jew, but I would rather die before doing

injustice to a Jew.[286]

Scholar of the case Leonard Dinnerstein unwittingly confirms this point when he wrote that anti-Semitism in Atlanta "[is] evident in the widespread acceptance of Negro Jim Conley's testimony."[287] Here even a Jewish scholar, writing *after* the Civil Rights Movement—which was said to have reformed such notions—considers it a sign of "anti-Semitism" when the civil rights of a *Black* person are respected in an American courtroom. In Dinnerstein's construction, there is no room for the veracity of the Black witness or for the fairness of white Gentile jurors and officials. Nor can (or should) the acceptance of Black testimony be seen as a significant breakthrough in American jurisprudence; nor does Dinnerstein invalidate every previous case in an American courtroom, as Jewish scholars would invalidate any Nazi court proceeding as intrinsically fraudulent. The heretofore-immutable principle of white-only testimony, by Dinnerstein's calculation, is a reasonable *status quo*. The extension of Dinnerstein's argument is that in *any* instance where "Negro testimony" is given *any* credence in cases affecting Jews, it is *by definition* anti-Semitism.

Prominent American Jews with reputations as racial liberals were drawn in to support the racist paradigm of "negro testimony" and "negro crimes." Rabbi Stephen Wise of New York was one of the foremost Jews in America and a supporter of the NAACP. In reference to the Frank case, Wise insisted that crimes against women are "rarely, if ever" committed by Jews, an assertion intended to mean, of course, that such outrages *are* common to other races—namely, James Conley's race.[288] Ironically, Jews were at that moment the undisputed masters of the international prostitution

trade known as “white slavery.”[289]

Frank’s defense team had bared their teeth and let loose a blistering barrage of racial invective. With Frank looking on, Rosser called Conley a “dirty nigger” and a “disreputable negro ex-convict,” and referred to him as “bestial” and “filthy” and as a “savage” and a “brute.”[290]

Reuben Arnold went beyond the individual Black witness before him and asserted, “Every Southern man knows that negroes can make up gruesome stories.” Conley, he said, was “a perpetual lawbreaker who has a *law-breaking race* back of him.”[291] In reference to the murder notes found next to Mary Phagan’s body, Arnold raged:

> These notes are *negro notes* from beginning to end—in thought, in composition, in everything. The *savage* mind acts in strange, devious, peculiar ways; the educated mind does not….They are idiotic and ridiculous, except to an ignorant, *darkened* mind.… Here we have a note so obscure, so couched in the *dark vernacular of the negro*, he says it was all dictated by Frank, too; that our Southern policemen who corral these negroes daily, who deal with them and who play with them like you would with cards on a table, can’t understand it. Every one is groping in the *darkness* until Newt Lee sees it. Newt Lee, a negro whose *mental operations* are the same as Jim Conley’s….A white man goes by his intelligence, by his logic, by his discernment; *a negro goes largely by his instinct*, and, occasionally, it is strikingly correct.[292]

And thus, the negro notes led *ipso facto* to the negro crime:[293]

> Well, the little girl [Mary] entered, and she got her pay and asked about the metal and then she left, but there was a *black spider* waiting down there near the elevator shaft, a great passionate, lustful *animal*….He was as full of vile lust as he was of the passion for more whiskey...[294]

Conley was not shown to have been drunk on the day of the murder, and, in the light of testimony from his cook Mrs. Minola McKnight and his friend Mr. C. Brutus Dalton, inebriation seemed more descriptive of the defendant Leo Frank. Nor is there any testimony that Conley ever used cocaine, yet the venerable Luther Z. Rosser declared:

> Is it possible that you Anglo-Saxon men have forgotten the nature of the negro?....Conley is a plain, beastly, ragged, filthy, lying nigger. Have I overstated that?….Conley is a plain, dirty, filthy, lying, drunken and probably lousy nigger….They got a dirty black negro and in order to give impetus to his testimony they had a barber cut his hair and shave him, and they gave him a bath, and he came in here like a slicked onion. Whoever played that trick was unworthy of the name “white man.” Why didn’t they let you see him as he was, with his spreading nose through which probably tons of cocaine have been sniffed?[295]

And when Conley did not recall whether he had

finished his breakfast on a day four months before, Luther Rosser snorted: "Don't you know a nigger never had sausage on the table without eating it?" Sneering at Conley, he fumed, "They put some clean clothes on you, didn't they, so the jury could see you like a dressed-up nigger."[296] He turned to the jury and summed up their task:

> That white men should believe this infamous character [Jim Conley] is a shame on this great city and this great State, and will be to the end of time.

And though the *Georgian* reported that Luther Rosser referred to Conley "with unsparing epithets," the Jewish defendant "shook hands with [Rosser] warmly and congratulated him upon his speech."[297]

Night watchman Newt Lee was exonerated of any role in the crime, but Frank's team—throughout the trial and long after—continued to insist that Lee had played some part in the murder.[298] They had even planted a bloody shirt in his home to "help" the investigation along. Luther Rosser, in referring to the characteristics of that bloody shirt, had this exchange with the medical expert in open court.[299]

> Q. The shirt had the odor of blood on it when you first got it, didn't it?
>
> A. Yes.
>
> Q. Then, wouldn't the odor of blood have killed the odor of 'nigger'?
>
> A. No.
>
> Q. Then, if a nigger had just put on his

> shirt and had taken it off in an instant, your nose would 'get him'?
>
> A. Have you ever smelled a negro, Mr. Rosser?
>
> Rosser: "More than you ever smelled. I was smelling them before you were born."

As president of B'nai B'rith Leo Frank was arguably the most important Jew in Georgia, yet his courtroom defense would become one of the most racist ever recorded in the history of the American judicial system. And whilst scholars have insisted that "anti-Semitic" lynch mobs were lusting for the blood of the Jewish Leo Frank, the incredible fact is that Frank himself was quite willing to stoke a racial climate so dangerous and volatile that the white *gentile* mayor of Atlanta had to take special measures to prevent the *Black man's* lynching.[300]

Jeffrey Melnick said the Frank team waged "a virulent racist offense," and their attempts to vindicate Frank, he wrote, "ultimately validated the process of racial scapegoating itself." Their raging about "black beast rapists" and other vicious stereotypes "became a familiar feature of pro-Frank discourse." They "capitalized on much the same sort of racist thinking that helped to turn public opinion against their man."[301] The supporters of Leo Frank "proved willing to employ racist thinking to condemn Jim Conley while often simultaneously decrying the similar sentiments that contributed to Frank's conviction."[302] Theodore Rosengarten lamented, "Readers who wish to find a progressive Jewish social ethic at work in the Frank camp will be sorely disappointed. Frank's lawyers played the race card for all it was worth."[303]

Leo Frank Takes the Stand

Like a dull knife, just
ain't cutting,
Just talking loud,
and saying nothing

—
James
Brown

The jury, now awash in the unseemly realities of Leo Frank's private life, anticipated an explanation directly from the man himself. And on August 18th, the defendant took the stand in his own defense, but he did so under a strange anomaly of Georgia law that made him impervious to cross-examination. Under the law a "prisoner" had the right to make a statement in court but he would not have to be sworn on the Bible or cross-examined by the prosecutor. In effect, Frank would be able to say anything to the jury on any topic—he would not even have to speak about the case at all—and prosecutor Hugh Dorsey would have no role except as spectator.[304]

Nonetheless, on August 17th the *Georgian* gave the event advance billing, posting a big banner headline: LEO FRANK IS READY TO REVEAL HIS STORY. "What this statement will be the defendant's lawyers themselves profess not to know," though Frank's attorneys informed the press that he had been preparing his statement since the trial began. The *Georgian* expected that Frank would "appeal to

the reason and common sense of the twelve men." And though the newspapers sympathetically reported that he "made his own best witness," that sentiment turned out to be woefully optimistic.

In the four hours of his exhaustively rehearsed monologue, Frank approached his last opportunity for redemption in a most curious manner. With all ears open to him as never before, he treated Atlanta to a litany of technocratic details about his daily work routine, giving a bare minimum of attention to the capital murder charge against him.[305] He took the jury through the eye-glazing, mind-numbing details of factory management and administration—point by tedious point—a sample of which follows:

> Of all the mathematical work in the office of the pencil factory, this very operation, this very piece of work that I have now before me, is the most important, it is the invoice covering shipments that are sent to customers, and it is very important that the prices be correct, that the amount of goods shipped agrees with the amount which is on the invoice, and that the terms are correct, and that the address is correct, and also in some cases, I don't know whether there is one like that here, there are freight deductions, all of which have to be very carefully checked over and looked into, because I know of nothing else that exasperates a customer more than to receive invoices that are incorrect; moreover, on this morning, this operation of this work took me longer than it usually takes an ordinary person to complete the checking of the invoices, because usually one calls out

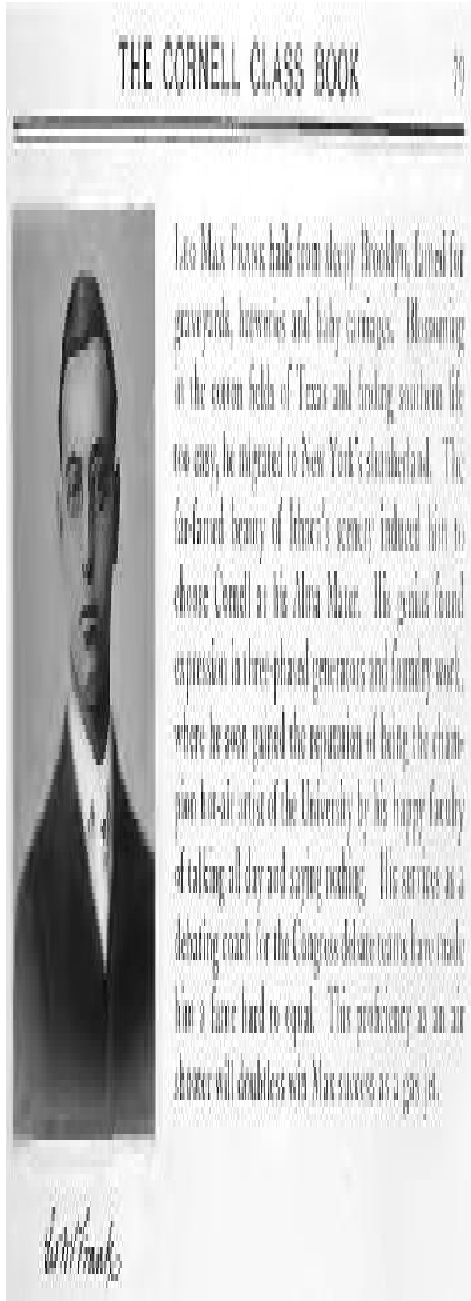
and the other checks, but I did this work all by myself that morning, and as I went over these invoices, I noticed that Miss Eubanks, the day before, had evidently sacrificed accuracy to speed, and every one of them was wrong, so I had to go alone over the whole invoice, and I had to make the corrections as I went along, figure them out, extend them, make deductions for freight, if there were any to be made, and then get the total shipments, because, when these shipments were made on April 24th, which was Thursday, this was the last day of our fiscal week, it was on this that I made that financial sheet which I make out every Saturday afternoon, as has been my custom, it is on this figure of total shipments I make that out, so necessarily it would be the total shipments for the week that had to be figured out, and I had to figure every invoice and arrange it in its entirety so I could get a figure that I would be able to use.

The first order here is from Hilton, Hart & Kern Company, Detroit, Mich., here is the original order which is in the file of our office, here is the transcription which was made on March 28th, it hadn't been shipped until April 24th, this customer ordered 100 gross of No. 2 of a certain pencil stamped "The Packard Motor Car Company," 125 gross of No. 3 and 50 gross of No. 4; those figures represent the grade or hardness of the lead in the pencils; we shipped 100 gross of No. 2,

> 111 1/4 gross of No. 3 and 49 gross of No. 4, the amount of the shipment of No. 3 is short of the amount the customer ordered, therefore, there is a suspense shipment card attached to it, as you will notice, the first shipment on this order took place on April 24th, it was a special order and a special imprint on it, and therefore, the length of time, order received at the factory on March 18th.

Frank continued as though he believed he was addressing a pencil manufacturers trade conference. He even brought in a sample case of his pencil product line for the jury to see. What he had intended to accomplish by this long-winded industry exegesis is one of the enduring mysteries of the case. Indeed, the description of young Frank by his four-year college classmates in his 1906 Cornell senior class yearbook was no less than prophecy:

> His [Leo Max Frank's] genius found expression in three-phased generators and foundry work, where he soon gained the reputation of being the champion hot-air artist of the University by his happy faculty of *talking all day and saying nothing*. His services as a debating coach for the Congress debate teams have made him a fame hard to equal. This *proficiency as an air shooter will doubtless win Max success as a gas jet.*[306]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To be generous, part of his defense relied on the

notion that on that Saturday afternoon Frank was simply too busy preparing complex business reports to commit the murder and the cover-up. His approach seemed designed to establish that point, but every administrative detail Frank felt the jurors should know seemed only to reinforce their view that either he was deluded about the actual purpose of the trial, or he was attempting to conceal his guilt in a barrage of minutiae calculated to belittle or overwhelm their intelligence. And yet he pressed on in that same self-destructive vein.

Jeffrey Melnick is one of many scholars who considered Frank's statement damaging to his case:

> And when he does take the stand…I've read the whole speech, and it's gruesome —what Frank decided to focus on—a terrible mistake he made in his own case that he thought what was called for was to talk about the financial workings of the factory.[307]

According to the Anti-Defamation League's internal analysis, "His four-hour appearance on the witness stand was disingenuous in the extreme."[308] Steve Oney:

> By 4:35, when Judge Roan ordered a brief recess, Frank had been ratcheting on for the better part of two and a half hours. And while he may have convinced some of those listening that the work he'd done on the financial sheet the afternoon of the murder demanded intense concentration, it's doubtful he persuaded anyone to the related conclusion that he was guiltless. Indeed, the more probable reactions were

> suspicion and disbelief. Here was a man who for all his reliance on the precise language of management seemed to be manifesting a kind of hysteria. Had Frank ended his statement at this juncture, there can be little doubt that it would have been judged an unmitigated disaster.[309]

When he did finally focus on the events surrounding the murder, Frank offered no more about his own actions than was already asserted in his pretrial statements, all of which professed absolute ignorance of any aspect of Mary Phagan's demise. He denied any improper behavior with the factory's female employees or any engagement in after-hour adulteries. He denied "the negro Conley's statement" or that he had even seen Conley on the day of the murder. And when he had the opportunity to subject himself to questioning as "the negro Conley" had, Leo Frank declined. As he left the stand, the handwriting was on the wall.

August 25th marked the end of Leo Frank's month-long trial for the murder of Mary Phagan. It took jurors just a few hours to return a guilty verdict in a case that could only be described as a total legal disaster for Leo Max Frank. The weight of the evidence—the inconsistencies in Frank's alibi, James Conley's unshakable testimony, the wave of unchallenged victims of Frank's sexual harassment, Frank's refusal to be questioned or to offer any alternative explanation of the crime—convinced a twelve-man jury of fellow white men not only that he was guilty of murder but that he ought to die. The next day, August 26, 1913, Judge Leonard S. Roan sentenced Leo M. Frank to hang for the murder of Mary Phagan. The execution date was set for October 10, 1913.

Prosecution Or Persecution?

So… What Just Happened? Trial Analysis

The trial of Leo Frank was long, expensive, and controversial—and the guilty verdict, unavoidable. As expected, the Frank Team quickly collected themselves, retooled, and moved the case through an arduous appeals process involving about a dozen courts and, ultimately, the U.S. Supreme Court. That two-year trek is rich in revealing details that open the "mystery" up to a deeper understanding of the case. Many questions were raised about the initial trial, questions that have not been fully answered or remain unexplored.

What follows is a re-evaluation of the overlooked, concealed, and misinterpreted evidence and issues that have plagued the Leo Frank case ever since April 26, 1913.

Was Leo Frank a Victim of Anti-Semitism?[310]

The voluminous literature on the Leo Frank murder trial is filled with questions and concerns about the role of James Conley, about the alleged "mob atmosphere," about the role of prosecutors, and about the fairness of the trial, the testimony, and the evidence. But most prevalent are the

allegations by supporters of Leo Frank that the entire affair was driven by "anti-Semitic" hostility, or, as the Frank team itself professed, "passion, prejudice, and perjury." Over the years supporters of Leo Frank have worked zealously and successfully to move "anti-Semitism" to the center of their narrative and even make a belief in his innocence a litmus test for the presence or absence of "anti-Semitism." Author Steve Oney, for instance, represents most of the writers in the field when he calls the Leo Frank affair "America's worst case of anti-Semitism."[311] Few have dared to challenge that view, but a far more supportable conclusion is that hatred of Jews or of Judaism was *not* a motivator or a factor in Leo Frank's prosecution; rather, the spectre of antisemitism was more the invention of Frank's supporters and later writers seeking to create Jewish American folklore instead of endeavoring to analyze the facts of the case.

Leo Frank was a high official in B'nai B'rith, the most prominent Jewish organization in America. He knew what anti-Semitism looked like and felt like, yet his own assessment of his circumstance was unequivocal:

> Anti-Semitism is absolutely not the reason for this libel that has been framed against me. It isn't the source nor the result of this sad story.

Frank was being interviewed by the legendary Jewish journalist Abraham Cahan, who was probing him to elicit the opposite response. Frank continued "in a tone of someone deeply convinced," "If I were an Italian, they would be inciteful against me as an Italian." His Southern-born wife, wrote Cahan, "supported her husband's claim."[312]

Though Frank was very clear about the absence of anti-Semitism, B'nai B'rith leaders used the case to energize its newly founded Anti-Defamation League (ADL), dedicated, they claim, to fighting anti-Semitism wherever it emerges. Today the ADL, like Oney, continues to ignore Leo Frank's own words and insists that the episode is the American manifestation of Hitler's Nazism—at least, it holds that view publicly. Its own internal analysis performed half a century after the verdict admits that the mishandling of Leo Frank's defense and the actions of the accused himself were far more significant than any other factor in his conviction:

> The defense of Leo Frank was one of the most ill-conducted in the history of Georgia jurisprudence. The defendant made all possible mistakes in handling himself before his arrest. His attorneys completely misunderstood the nature of the evidence against him. His defense was handled by so many people, diverted in so many directions, that it is now impossible to determine responsibility.[313]

The ADL's 1953 assessment diverges widely from the version that it publicly promotes, but its privately voiced candor demands a more critical and nuanced view of the case.

There are two facets of the case where "anti-Semitism" is claimed to have been a factor: first, in the conduct of the case by the prosecutors, who it is said "framed" Leo Frank *because he was a Jew*; and second, among the spectators in and around the courthouse, where "mobs of anti-Semites" are said to have physically intimidated the judge and the jury.

Was Leo Frank "Framed"?

The central figure in formulating and prosecuting the case against Leo M. Frank was Fulton County solicitor Hugh M. Dorsey. It was Dorsey who prepared an impressive cache of damning evidence pointing convincingly to the guilt of Leo Frank. For the case to have been a judicial *pogrom,* as is claimed, Hugh Dorsey would have to have been the main culprit.

After his trial, Frank claimed that Dorsey had corrupted evidence and tampered with witnesses, motivated, he alleged, by political ambition—but *not* by "anti-Semitism."[314] Dorsey's boss at the time was Georgia governor John M. Slaton. He is considered the white knight of the Leo Frank affair because of his bold decision in 1915 to commute Frank's death sentence to life imprisonment. Before making that decision, he performed his own detailed investigation that included an analysis of the trial. His own report concluded:

> The Supreme Court found in the trial no error of law and determined as a matter of law, and correctly in my judgment, that there was sufficient evidence to sustain the [guilty] verdict.[315]

University of California scholar Albert Lindemann authored two books on the history of anti-Semitism and studied several famous trials with implications for the Jewish community. He wrote that "Even many Jews in Atlanta long remained doubtful about the importance of Frank's Jewishness in his arrest and conviction."[316] In Dr. Lindemann's view,

> Dorsey was not an anti-Semite, nor was he operating in a previously existing anti-Semitic climate. Attacks on Jews had not been used in the past to gain popularity or public office.[317]

Dorsey had lectured before Jewish civic groups, and when he ran for his position as Atlanta's top prosecutor, twelve Jewish attorneys publicly endorsed him. One of the partners in his law firm was a prominent member of Atlanta's Jewish community.[318] Dorsey's college roommate at University of Georgia was Frank's Jewish attorney Henry Alexander. Jews across the South were well entrenched in a Jim Crow court system that they helped develop and on which they relied for their everyday business needs.[319]

The fact is, the question of Frank's Jewishness went undiscussed and uncommented upon throughout the trial—until Frank's own attorney Reuben Arnold, a Gentile, made this unsupported claim in his closing argument:

> I'll tell you right now, if Frank hadn't been a Jew, there would never have been any prosecution against him. I'm asking my own people to turn him loose, asking them to do justice to a Jew, and I'm not a Jew, but I would rather die before doing injustice to a Jew.[320]

Dorsey forcefully countered the race-card tactic in that part of his closing argument he called a "Tribute to the Jewish Race":

> I say to you here and now that the race from which that man comes is as good as our race. His ancestors were civilized

when ours were cutting each other up and eating human flesh; his race is just as good as ours—just so good but no better. I honor the race that has produced a [Benjamin] Disraeli—the greatest Prime Minister that England has ever produced; I honor the race that produced Judah P. Benjamin—as great a lawyer as ever lived in America or England, because he lived in both places and won renown in both places. I honor the Strauss brothers —Oscar, the diplomat, and the man who went down with his wife by his side on the Titanic. I roomed with one of his race at college; one of his race is my partner.

I served with old man Joe Hirsch on the Board of Trustees of the Grady Hospital. I know Rabbi Marx but to honor him, and I know Doctor [Ralph A.] Sonn, of the Hebrew Orphans' Home, and I have listened to him with pleasure and pride.

But, on the other hand, when [Charles] Becker wished to put to death his bitter enemy, it was men of Frank's race he selected. Abe Hummel, the lawyer, who went to the penitentiary in New York, and Abe Reuf, who went to the penitentiary in San Francisco; Schwartz, the man accused of stabbing a girl in New York, who committed suicide, and others that I could mention, show that this great people are amenable to the same laws as you and I and the black race. They rise to heights sublime, but they sink to the depths of degradation.[321]

Dorsey's passionate public defense of himself and praise for the Jewish people should have meant the end of his career if the climate in Atlanta was one of raging anti-Semitism. But the tribute was well received—no howling mob of anti-Semites rebuked him, no threats of lynching or retaliation followed—and the trial proceeded without incident.

Leo Frank was indicted by a 23-member grand jury[322] that included five prominent members of the Jewish community. Dr. Lindemann states:

> It seems safe to conclude that they were persuaded by the concrete evidence that Dorsey presented, not by his pandering to anti-Jewish feeling (the grand jury met before Conley's testimony against Frank was known, it should be noted).[323]

Lindemann surmised:

> Had Frank not been Jewish, but only a northerner or an Italian or a rich man or simply a man with his personal appearance and idiosyncrasies, he still might have been arrested and convicted of the crime.[324]

Most accounts of the Frank Affair inexplicably ignore the salient fact that none of those Jewish grand jurors is known to have commented publicly on the case at the time of the massive international Jewish effort to free Frank after the verdict, or in the years following, though their voices would have been supremely significant. Like Frank, the well-known Jewish businessman Oscar Elsas was a client of the law firm of Luther Rosser, and he was known for his *over-sensitivity* to anti-Semitism. He was one of several Jews serving on the panel that decided to

indict Frank *and not Conley* for Mary Phagan's murder.[325] This striking Jewish participation in the indictment phase—and before any alleged "frame-up" could materialize—may help to explain why Atlanta Jews were less conspicuous in their support of Frank throughout the trial.[326]

Other points that cast doubt on the charge that anti-Jewish prejudice was a factor in the trial of Leo Frank:

- Four Gentiles were arrested before Frank was.
- The detectives from the two private detective agencies Frank himself had hired stated openly before the trial that they believed Frank to be guilty of the murder.327
- An anonymous appeal in 1915 to boycott Jewish merchants of the murder victim's home town "failed to attract widespread support,"328 showing that whatever alleged efforts were attempted to inflame Georgians on the basis of "Jew-hatred" were failures. Such calls may even have been angry reactions to the boycotts by out-of-state Jewish businesses that were then underway.329
- Of the more than 100 official complaints that Frank's attorneys filed on appeal of the conviction, not a single one claimed "anti-Semitism" as a factor in the trial. This is even more striking because Frank's public relations campaign

was simultaneously claiming that Frank's treatment in court amounted to "anti-Semitic" persecution.330

- The United States Supreme Court—which was far out of the reach of the threat of any alleged "anti-Semitic" mob violence—affirmed the guilty verdict and the death sentence and found no irregularities in the trial.

Add to the above facts an editorial in the nation's premier Jewish newspaper, *American Israelite*, which made important observations in the heat of the battle for Frank's exoneration:

> Nor should the question of anti-Semitism be put unduly in the foreground. The best Jewish authorities are *not satisfied that anti-Semitism played as great a part in this matter as might be supposed*.331

There is no question that the many white Georgians riveted by the trial believed Frank guilty of a heinous sexualized child-murder, and the trial evidence strongly supports that conclusion. Many among the relatively small group of spectators332 openly cheered the verdict (as occurred in the O.J. Simpson trial, for instance333), but the mendacious claim that "anti-Semitism" inspired their outburst is unsupportable. Whatever "outbursts" there were, wrote Steven Hertzberg, "never imperiled [the Jews'] physical security."334 By stark contrast, nearly all anti-Black outbursts in this time and region "imperiled the physical security" of all Blacks. A *rumor* of murder thought to have been

committed by a Black man sparked the five-day murderous riot in 1906 in which 50 retaliatory murders of innocent Blacks occurred. In 1913, an *actual* murder thought to have been committed by a Jewish man sparked a lengthy formal trial.

The ADL's assessment is accurate. Leo Frank and his team of defenders made a series of missteps and blunders—in and out of court—that harmed him irreparably. Frank's attorney Reuben Arnold hardly endeared himself to the masses when he described those who believed his client guilty as "ignorant." In court he referred to the audience as "that gang of wolves," and characterized a white employee of Frank's who had testified against him as "the ugliest, dirtiest reptile…[whose] habitat was in the filth."[335] Luther Rosser walked a fine line when he took on his former law partner, the trial judge:

> The trial was a farce and not in any way a trial. In saying this, we do not make the least criticism of Judge Roan, who presided. [He] is one of the best men in Georgia and is an able and conscientious judge.[336]

Similarly, some of Frank's Jewish supporters were just as callous as Arnold in their views of the poor victim Mary Phagan. The *New York Sun* reported, "Some Jews were credited with saying that even if Frank did kill Mary Phagan she was nothing but a factory girl."[337] The trial record tells the story of an apparent coldness on the part of the wealthy Jews in the midst of a shocking tragedy. The morning after the murder "Mr. Frank and his wife came over to Mrs. Ursenbach's on Sunday after we had breakfast about nine o'clock," Annie Hixon, the Black maid of Frank's in-laws, testified.

> They come over there every Sunday. I didn't pay any attention to what they talked about that morning. They were just laughing and talking like they always do. Yes, he laughed. They were all laughing together. He wasn't nervous or excited so far as I could see. Nothing unusual about him. Don't know what they were laughing about.[338]

Georgians and the Phagan family must have resented those callous attitudes. Thomas Watson spoke for the Georgian people:

> Only "a factory girl!" That's what the papers kept on saying. Yes; she was only a factory girl: there was no glamour of wealth and fashion about her. She had no millionaire uncle; she had no Athens kinspeople ready to raise fifty thousand dollars for her; she had no mighty connections to wield influence, muzzle newspapers, employ detectives, and manufacture public sentiment. Only a factory girl…[339]

Leo Frank's Anti-Semite For Hire: Thomas B. Felder

I know who killed Mary Phagan. That damned Jew Frank killed her, and I have known it for three weeks.[340]

—

Thomas B. Felder, a Frank employee

The absence of anti-Semitism in the official trial of Leo Frank does not mean that it was totally absent from the events associated with the Atlanta tragedy. We know that Thomas Watson's entry into the case in 1914, a half-year after the trial, brought with it an upsurge in white Jewish–Gentile tensions, and his participation will be covered in a later chapter of this study. But a lesser-known chapter in the early stages of the case is where we find the first signs of publicly expressed anti-Jewish bigotry.

Thomas B. Felder

Just three weeks after the murder of Mary Phagan came the awkward entry into the case of a

well-heeled Georgia-born attorney named Thomas B. Felder. At 48, Felder was a mason, an Elk, and a one-time mayor of Dublin, Georgia. He had earned the honorific title "Colonel" by his fidelity to Southern traditions, and, along with his socialite wife, he was a stalwart member of high Southern society. So when he entered the fray claiming to represent the lower-working-class friends and family of Mary Phagan, it raised more than a few eyebrows.[341]

Even with his insider status and local renown Col. Felder's presence seemed strangely out of the blue. He went about soliciting donations from the public, he claimed, to hire a professional detective agency "to get to the bottom" of the tragedy and to ensure that poor Mary received justice. By this time Leo Frank was in custody and considered the only suspect, and he was only moments away from being formally indicted. The Atlanta Police Department had made the case its highest priority, as did the office of prosecutor Hugh Dorsey. Aiding them were the internationally acclaimed Pinkerton detectives hired by Frank himself, and all felt confident in their conclusion that Leo Frank murdered Mary Phagan.[342] But Felder insisted that yet a fourth investigative force was necessary, namely the Pinkerton rival William J. Burns Detective Agency.

Felder drew yet more suspicion when the first donors to his public fundraising effort were revealed to be wealthy Jews, most notably the industrialist and Chamber of Commerce official William J. Lowenstein and cotton merchant and philanthropist Joseph Hirsch. Mary Phagan's Marietta neighbors whom Felder claimed to represent were not among the donors. In fact, when they were asked about their relationship to their self-declared savior, Mary's family disavowed

Felder, claimed to have rejected his offers of assistance, and continued to express their full confidence in the police.[343]

Felder's maneuverings soon backfired when the police lured him into a meeting with hidden microphones recording the session. They caught Felder offering a bribe of $1,000 to a police official for documents related to the Frank case (about $25,000 in today's money). Felder, believing he was holding a private conversation, explained his motivation:

> This damned fellow [police chief of detectives Newport] Lanford…knows that Frank killed this girl, but he has sold out to the Jews for big money which he is getting and has got…in his effort to protect this damned Jew.[344]

Felder's intemperate fulminations were all being secretly transcribed in the next room and were soon exposed on the front pages of all the Atlanta dailies. With the city spotlight now on him Felder amplified his anti-Jewish posture, continuing to profess that his only desire was to get at the truth of the murder of young Mary Phagan.

"Anti-Semitism" would become the central theme of the Frank case for the next century, but Felder's open bigotry, just three weeks after the crime, was actually the first recorded expression of it. What should have been the most obvious and open proof that anti-Jewish bigotry did indeed infect the case was met with a suspiciously muted response. Frank's friends and defenders seemed to ignore Felder's anti-Jewish rant, as do the army of pro-Frank writers who have taken the case on as a Jewish *cause célèbre*. In fact, wrote the *Georgian*,

there is good reason for their self-imposed gag order:

> It had been believed that [Felder] really *was in the employ of the Frank defense* up to the time that he began to bombard the public with statements against Frank and went on record in saying he believed in the guilt of Frank....[345]

The *Georgian*'s hunch—that Felder was indeed a Frank hire—was very likely correct, and Felder's blustery descent into anti-Jewish bigotry may have been a ruse by the defense team to gain access to the prized police documents that might help in Frank's cause.

Roger Honkanen was the researcher for Harry Golden's book *A Little Girl Is Dead*. In private correspondence he wrote to Golden that

> Felder was pretending to be pro-police and anti-Frank—even making wild statements against the Jews of Atlanta….This was to cover the fact that *he was actually working for Frank*, as nearly as I can figure, in bringing in the Burns detectives. [346]

Several things point strongly to that conclusion: Leo Frank and his legal team became strongly dissatisfied with the performance of Pinkerton agent Harry Scott, who had shown himself to be true to Frank's own publicly stated charge "to aid the local officers in the search for the man responsible for the brutal murder."[347] In Frank's mind, Scott took that announcement far too literally. By this time in the investigation, the Pinkerton's Detective Agency had become fully convinced of Frank's guilt.

This, of course, had to be disturbing to Leo Frank and the Montags. The Pinkertons were paid by the National Pencil Company, not by the taxpayers. They were expected to *protect* Frank—not *prosecute* him—irrespective of the superintendent's public pronouncements.

That put Frank in a serious quandary—he had to shut down his own detective agency and find another more cooperative one, but without suggesting to the public or the police that the Pinkertons had performed unsatisfactorily. Thomas Felder was just the kind of character who could appear as an independent agent, make noise about the inadequacy of the investigation and the shielding of "the Jew," and bring in the Burns Agency to "get to the bottom" of it all. It was a bold, arrogant, and thoroughly ill-conceived scheme that was put into motion even before its perpetrators secured the cooperation of the victim's family—the scheme's alleged beneficiaries.[348]

Also, in his law practice Felder had a strangely niched clientele, as described by Steve Oney:

> [Felder] had floated into Atlanta society on a veritable stream of alcohol. Just how many breweries, distilleries, distributors and bar owners the Colonel counted as clients is uncertain (40 was the number critics bandied about), but what it all added up to was an undeniable reality: Felder was the city's reigning liquor lawyer.[349]

In the 2014 book *Jews and Booze: Becoming American in the Age of Prohibition*, author Marni Davis impresses upon her readers that the business of "booze" was a Jewish specialty, *especially* in the

South. Thus, Felder's clients were very likely Jewish businessmen in Leo Frank's social network.[350] Indeed, standing by waiting in the wings for Felder's ill-fated doc-drop was "a committee of citizens, among whom were Mr. Hirsch, Mr. Myers, Mr. Greenstein and several other prominent Jews in this city."[351]

If there were a moment in the case when Georgia's "anti-Semites" were almost forced to make their presence felt, Felder provided it, yet no one—not a single person—seconded Felder's anti-Jewish motion. Felder's calculated rage about "a Jewish plot" was memorialized in a legal affidavit, and though the *Atlanta Journal* fully quoted it, the *Georgian* and the *Constitution* chose only to summarize Felder's remarks in a much-softened form.

And incredibly, not a single Jew came forward to decry the overt and open bigotry so audaciously spewed by this prominent Georgian. Scholars of the case seem anxious to ignore the Felder Affair—if they bring it up at all. In just a few months hence Felder could be found throughout the newspapers unscathed, enmeshed in the hot-and-heavy mix of white Georgia politics.

In retrospect, it seems evident that Felder had worked on behalf of Frank and his Jewish supporters to obtain valuable inside information about the murder investigation. The "mystery" of whom Felder worked for, if there ever was any doubt, seemed to be solved about a year after that debacle when the home of esteemed Jewish industrialist and National Pencil Company shareholder Oscar Pappenheimer burned down. According to the *Atlanta Journal* (May 31, 1914), "The entire Pappenheimer family went to the home of Thomas B. Felder…for the remainder of the

night."

Injecting Anti-Semitism into the Trial: The Brent–Kendley Affair

Once the Felder commotion died down, the highly anticipated trial of Leo Frank got underway on July 28, 1913. As previously shown, Frank suffered several early setbacks when his racism-based defense strategy was overpowered by the weight of the unshakable "negro testimony" of night watchman Newt Lee and factory sweeper James Conley. By the midway point it was dawning on Frank's attorneys that the legal route to their client's exoneration was fast closing and that other avenues and escape routes would have to open if Frank's life were to be spared. The ever attentive *Atlanta Journal* reporter noted a shift in the Frank defense tactics after Conley's "ingenious narrative" was disclosed in court:

> The defense is evidently playing for position in the event the jury returns a verdict against Frank. Both Attorneys Rosser and Arnold have daily entered many objections and taken many exceptions which they asked to be noted in the record. This is understood to mean that they are paving the way for an application to the supreme court for a new trial in case the verdict is adverse to their client.[352]

Remarkably, that very same edition of the *Journal* carried another front-page story with the

headline "WITNESS FOUND WHO SAW MARY PHAGAN ON WAY TO FACTORY." This "new" witness was a trolley conductor named George Kendley. He claimed that on the day of the murder, he finished his shift and boarded another car, whereupon he saw Mary Phagan walking down Forsyth Street a short distance from the National Pencil Company. He was sure of this, he said, because he had known Mary and her stepfather, J.W. Coleman, for years.[353] Thus, a full fourteen weeks after the crime, a family friend suddenly emerges with critical eyewitness testimony of the events leading up to the murder.

That was fishy enough, but the next series of coincidences seem to have the fingerprints of the ever-scheming counselors of Leo Frank. Through the fortuitous introduction of George Kendley Frank's attorneys executed a slick legal maneuver by which they manufactured "anti-Semitism" where none existed—and artificially created the "anti-Semitic" storyline that now permeates every retelling of the case.

Kendley was called as a *prosecution* witness to establish the timeline of the tragedy, given the particular importance of timekeeping to performing his job. This is key because Frank's lawyers were disputing the State's timeline and insisting that Mary arrived at the factory several minutes later, making it *impossible* for Frank to have committed the murder. But his testimony was oddly ineffectual:

> I saw Mary Phagan about noon on April 26th. She was going to the pencil factory from Marietta Street….The time that I saw her is simply an estimate….I remember seeing her by reading of the

> tragedy the next day....I know I saw her before 12:05….I couldn't swear it was exactly on the minute.[354]

Kendley's indecisive testimony actually assisted the alibi of Leo Frank.[355] Kendley was dismissed by Dorsey but his testimony was now in the official trial record. And here is where Frank's attorneys went into action. Despite his courtroom gift for the Frank defense, Kendley yet became the target of a particularly vicious attack by the same team of attorneys that sat mute when a parade of women and girls dragged their client's reputation through the proverbial mud. They ignored his testimony about Mary's arrival time, and instead called to the stand a Mr. T.Y. Brent, who testified that

> I have heard George Kendley on several occasions express himself very bitterly towards Leo Frank. He said he felt in this case just as he did about a couple of negroes hung down in Decatur; that he didn't know whether they had been guilty or not, but somebody had to be hung for killing those street car men and it was just as good to hang one nigger as another, and that Frank was nothing but an old Jew and they ought to take him out and hang him anyhow.[356]

Kendley very feebly denied that he had ever used this language,[357] but his alleged threats of religious violence against Frank became the doorway through which the issues of both *lynching and anti-Semitism* entered the official trial record. By trial rules only the issues and subjects raised through witness testimony could be discussed in the courtroom. Kendley's official appearance on the

witness stand for the prosecution gave the Frank defense the right to impeach him and his veracity. They brought Brent in for that purpose, and he told of his alleged anti-Semitic encounter with Kendley, thus opening the door for Leo Frank to play the "religion card" in a case where Frank's religion had never been an issue.

So fortuitous was this *second* gift for Leo Frank that one must reasonably conclude that Brent and Kendley were planted witnesses by the Leo Frank defense team. Kendley gave unexpected testimony that was critical to sustaining Frank's alibi. It was later revealed that T.Y. Brent was not a disinterested bystander randomly riding the trolley one day: he actually worked for the Leo Frank defense team! He states:

> *I have been employed by the defense* to assist in subpoenaing witnesses. I took the part of Jim Conley in the experiment conducted…at the factory on Sunday.[358]

Incredibly, Brent not only participated in the defense's crime scene reenactment but also appears early on in the case when Newt Lee was being interrogated by police. Brent, it seems, was Lee's former employer, and upon hearing that his former watchman was in custody, he went down to the police station to "volunteer."[359] This is where Brent entered the case and probably began his association with the Frank defense team.

Two other witnesses besides Brent claimed to have "overheard" Kendley's rant. One S.L. Asher said he had heard Kendley making anti-Semitic remarks, adding, "I took his number down to report him." On cross-examination, though, he admitted that he had filed no such report.[360] The other

"witness" was a Miss C. S. Haas, who said:

> I heard Kendley two weeks ago talk about the Frank case so loud that the entire streetcar heard it.

She continues with an oddly worded *non sequitur* that had lasting consequences:

> He [Kendley] said that circumstantial evidence was the best kind of evidence to convict a man on and if there was any doubt, the State should be given the benefit of it, and that 90 percent of the best people in the city, including himself, thought that Frank was guilty and ought to hang.[361]

That strange recounting of Kendley's alleged tirade just so happens to have the dual purpose of confirming Kendley's "anti-Semitism" *and* placing doubt in the jurors' minds about the credibility of "circumstantial evidence." Those are two points that Frank's attorneys surely wanted the jurors to consider but trial rules forbade them from raising. That this testimony comes from a woman named Haas—the same last name as Frank's main attorneys Leonard and Herbert Haas—only adds to its improbability.[362]

This little episode with its collusion of dubious witnesses and questionable events—that *for the first time* allows Frank's religion to be considered in the courtroom—was clearly more than accidental. Frank's attorney Reuben Arnold snatched the baton from Kendley "the Jew-hater" and ran the anchor leg in his closing remarks:

> They are fellows like that street car man, Kendley, the one who villified this defendant [Frank] here and cried for him to be lynched and shouted that he was guilty until he made himself a nuisance on the cars he ran.…Why I can hardly realize that a man holding a position as responsible as that of a motorman and a man with certain police powers and the discretion necessary to guide a car through the crowded city streets would give way to passion and prejudice like that.…It was a type of man like Kendley who said he did not know for sure whether those negroes hanged in Decatur for the shooting of the street car men were guilty, but that he was glad they hung as some negroes ought to be hanged for the crime. He's the same sort of a man who believes that there ought to be a hanging because that innocent little girl was murdered, and who would like to see this Jew here hang, because somebody ought to hang for it.…I'll tell you right now, if Frank hadn't been a Jew there would never have been any prosecution against him. I'm asking my own people to turn him loose, asking them to do justice to a Jew, and I'm not a Jew, but I would rather die before doing injustice to a Jew.…[363]

What may confirm this Kendley incident as a true concoction is the fact that at almost this precise moment in the trial, members of the B'nai B'rith were meeting secretly with the editor of the *Atlanta Constitution* about a controversial advertisement they wanted to place in the paper. That ad argued

that Frank was being prosecuted not because of his guilt, but *because of his religious faith*. Burton Rascoe reveals this in his book on the Leo Frank case:

> When the advertisement was shown to [Jacob] Dewey Gortatowsky, then managing editor of the *Atlanta Constitution*, the most influential newspaper in the South, and himself an orthodox member of Frank's religious faith, Mr. Gortatowsky strongly advised the committee not to publish the advertisement. He reminded them that five members of the grand jury which had indicted Frank were of Frank's own religious faith.
>
> He said that *they had no evidence upon which to base their assertion* and that no question of race or religion had been raised by the prosecution and that it would have made Solicitor-General Dorsey's job much easier if the grand jury had indicted Conley instead of Frank because Conley was not only a Negro and thus disfranchised and declassed, but a Negro with a police record, dissolute, shiftless and without friends or money.
>
> He said the advertisement would inflame morons and create prejudice where *no prejudice existed*, inasmuch as it accused a reputable and respectable state official, Hugh M. Dorsey, of gross dereliction of duty, and that the advertisement, moreover, attempted to try the case and free Frank before the jury had heard all the evidence. Mr. Gortatowsky intimated

> that the advertisement might prove inimical to their friend's interest. But the committee of Frank's friends went ahead and inserted the advertisement anyhow…

Rascoe goes on to say that the group became the Leo M. Frank Defense Fund Committee, of which Herbert Haas, attorney for the National Pencil Company, was chairman.

> [They] began to solicit funds on a national and international scale, alleging that Frank was a martyr condemned by religious prejudice.[364]

The defense team's deliberate injection of anti-Semitism into the trial proceedings did not escape the notice of prosecutor Hugh Dorsey, who in his own closing argument made sure the jury was made fully aware of the sleight of hand that took place right under their noses:

> But, ah! the first time it was ever brought into this case,—and it was brought in for a purpose, and I have never seen any two men manifest more delight or exultation than Messrs. Rosser and Arnold, when they put the questions to George Kendley at the eleventh hour. A thing they had expected us to do and which the State did not do because we didn't feel it [anti-Semitism] and because it wasn't in this case. I will never forget how they seized it, seized with avidity the suggestion, and you know how they have harped on it ever since. Now, mark you, they are the ones that mentioned it, not us; the word never escaped our mouth.[365]

So to recap: Trolley conductor George Kendley shows up three and a half months after the murder of a family friend claiming to be a witness to the exact time of the victim's arrival at her workplace, but becomes foggy-brained under oath. He has a shameful public episode in which he spews anti-Semitic invective *that he has trouble under oath remembering or denying,* at the exact same moment that T.Y. Brent, a Frank legal team employee, is riding that same trolley, along with two other Jewish people, one of whom has family ties to Frank's lead attorneys, who are at that same moment assembling and meeting with Jewish leaders to seek ways to make a *non-existent* "anti-Semitism" the centerpiece of the Leo Frank trial. And the "random" result is that Kendley's name is used unsparingly by Leo Frank partisans to do exactly what the Haases had intended: change a lawful trial proceeding into a violent anti-Semitic persecution of Leo Frank. Dinnerstein points out the obvious:

> The remarks attributed to the trolley conductor were less important for their content than for the attitudes expressed. It was the first time that any indication of overt anti-Semitism appeared in the court.[366]

"Hang the Jew or We'll Hang You"? Was there a Mob of Anti-Semites at the Trial?

When the law is on your side, argue the law. When the facts are on your side,

argue the facts.
When neither the
law nor the facts are
on your side, create
confusion.

—
lawyer's
adage

There is almost no *acceptable* way to view the Leo Frank murder trial except as a month-long riot of anti-Semitic violence filled with death threats to the judge, intimidation of the jury, and outright persecution of the innocent Jewish defendant. So much of the literature on the case from so many respected sources insists on a violent anti-Semitic backdrop that it has become the unquestioned and unassailable "official" version.

Typical of those "authoritative" accounts is this one from the prestigious American Jewish Historical Society (AJHS):

> Crowds outside the courthouse shouted, "Hang the Jew."…[O]ne juror had been overheard to say before his selection for the jury, "I am glad they indicted the G-d damn Jew. They ought to take him out and lynch him. And if I get on that jury, I'll hang that Jew for sure."[367]

The AJHS here blends elements from several creative accounts, but variations on the above theme, as will be shown, are virtually endless. The Anti-Defamation League of B'nai B'rith (ADL)—

which found its *raison d'*être (ostensibly "to stop… the defamation of the Jewish people") in the outcome of the Frank trial[368]—is foremost among the spreaders of this notion of mob domination. Its promotional literature claims:

> "Hang the Jew, Hang the Jew." This was the cry of the furious mob outside the Atlanta courthouse where Leo Frank, a Northern Jew, stood trial after his arrest...[369]

In 1979, an ADL official published a book containing the most outrageous claim to date. Nathan C. Belth quotes a B'nai B'rith friend of Leo Frank's who claimed to be in the courtroom during the trial:

> Mobs choked the area around the courthouse. Men with rifles stood at the open windows, some aimed at the jury, some aimed at the judge. Over and over, louder and louder the men repeated the chant "Hang the Jew, Hang the Jew."...The mobs kept up their chant. I can still hear them screaming...through those open windows. And inside the courtroom, spectators were allowed to give free vent to their anti-Semitism. The jury was threatened with death unless it brought in a verdict of guilty. The judge was threatened with death if he didn't pass a sentence of hanging. No deputies tried to clear the windows or the courtroom. And sitting there, looking so small and forlorn was my friend Leo.[370]

Then there is the objective truth of the matter

that, by elementary analysis, collapses this popular account of the trial into fragments of unsupportable claims, wishful thinking, and outright religious propaganda. Although Steve Oney is listed by the Anti-Defamation League as an expert on the case, he directly refuted the ADL's claim:

> [I]t didn't happen. It was something that someone wrote a couple years after the crime, and then it got stuck into subsequent recountings of the story….Jews were accepted in the city, and the record does not substantiate subsequent reports that the crowd outside the courtroom shouted at the jurors: "Hang the Jew or we'll hang you."[371]

Before Oney confirmed it in his 2003 work, Mary Phagan's grandniece and namesake, Mary Phagan Kean, who spent thousands of hours examining court records and newspaper reports for her 1987 book *The Murder of Little Mary Phagan,* told an interviewer:

> There were no bloodthirsty crowds shouting, "Hang the Jew" outside the courthouse.[372]

Most astounding, the alleged victim and target of this alleged violence, Leo Frank, recounted his experience at trial to the *New York Times*. He referred to the crowd as "unruly and boisterous"—quite common for trials of that era—but *he made no mention* of any anti-Semitic threats, chants, slogans, or statements. Reporters observed "laughter or hisses," a "murmur of applause," "a stamping of feet about the room," and what Frank strangely referred

to as the "spirit of passionate tension," but nothing even close to the far more caustic "Hang the Jew" or any other anti-Semitic lynch mob rhetoric.[373] After having experienced the entire month-long trial Frank's attorney Luther Rosser addressed the jury on this very issue in his closing argument: "You are without the echo of the hostile mob or overzealous friends."[374]

Leonard Dinnerstein's widely referenced book, *The Leo Frank Case*, is the most potent source of the "Hang the Jew" fabrication. He even adds words and phrases that give scholars new and unique embellishment options.[375] The Southern Poverty Law Center has included the following account in a "Teaching Tolerance" curriculum aimed at school children:

> At every turn, the courtroom thundered with cheers for Dorsey, boos for Frank. Each morning as the jury walked over from a nearby hotel, the crowd chanted, "Hang the Jew, or we'll hang you!"[376]

Harvard law professor Alan Dershowitz, presumably a careful legal analyst, went ahead and placed the alleged threat *inside* the courtroom, insisting that the "smell of the lynch mob was in the air" and that the gallery crowds "shouted anti-Jewish epithets and demanded Frank's death."[377] Jewish neoconservative Murray Friedman further enlarges the fable beyond that which his own source claims. He says the cry was "Death to the Jew!"[378] In most of the books and articles that mention the Frank case, some version of that phrase is the *only* quote presented from the two-year case history.

When he lies, he speaks his native language, for he is a liar and the father of lies.

—Jesus
speaking,
in John
8:44

So how does a complete fabrication become the central theme in the trial of Leo Frank for the murder of 13-year-old Mary Phagan? It starts with an understanding of the clear objective of the Leo Frank defense: to transform a duly convicted child rapist and strangler into a Jewish *cause célèbre*. The *American Israelite* newspaper stated the absolute value of the "anti-Semitism" charge to that objective in these stark terms:

> The moment the cry of "hang the Jew" was raised, the case was made one of interest to every Jew in the United States.[379]

And when we peel back the layers of this enduring legend, we find its source—not in the courtroom, but in the pages of *Collier's* magazine in its December 17, 1914, issue:

> On the last day I was in Atlanta I went to

> the office of one of Frank's lawyers to say good-by. The telephone rang. "If they don't hang that Jew, we'll hang you," came the message.

Writer C.P. Connolly was hired by Leo Frank's propaganda team to serialize *their* version of the Atlanta trial and its aftermath.[380] Neither Judge Leonard S. Roan nor Frank's lawyers nor the jurors ever mentioned receiving such "communications" or "threats." And though it is the first and only time this dubious incident appeared in print, even Connolly presents it as an anonymous phone call nowhere near the courtroom. And many creative embellishments certainly followed.

There is no doubt that there were emotional moments at the trial, but when manifestations of this excitement interrupted the trial, there was prompt and decisive action by the judge. A *Constitution* reporter described one incident he witnessed where the courtroom audience applauded when Frank's attorney Luther Rosser admitted he had made a mistake:

> The deputies rapped for order, and Judge Roan gazed over the throng with astonishment. Several court attaches spotted men who had applauded, and they were forthwith ejected from the room. There was pained surprise in the faces of the attorneys for both the state and the defense. They wondered, as all others wondered, why should there be applause when the procedure there in effect would, surely, lead one of the two men to the scaffold.[381]

Similarly, after Frank's mother, Mrs. Rae Frank,

cursed the prosecutor in open court, the judge "gave warning that there must be no more such demonstrations."[382]

Several news reports present an atmosphere that is quite contrary to that portrayed by the makers of the Leo Frank Legend. At the beginning of the trial, an *Atlanta Journal* headline read, "PICNIC AND THEORIES MARK NOON HOUR IN FRANK TRIAL COURT ROOM." The page-one article said, "[T]he room where the Frank trial is taking place has all the appearance of the pavilion at Grant Park on a hot July Saturday." The *Journal*, whose editor was Jewish, continued:

> The benches are spread with boxes and sacks, sandwiches, chicken, cake, all the other essentials of a picnic lunch save ice-cold lemonade, are passed about from man to man, and the noon hour dinner is eaten with as much good-natured laughter as if there was never such a thing in the world as a murder trial.

When Frank himself entered the courtroom, he was accompanied by his wife and mother, "smiling cheerfully, and responding to the greetings of a number of friends."[383] The *Journal* offered a lengthy article titled "PLAYING PRACTICAL JOKES ON WATCHFUL BAILIFFS IS PASTIME OF FRANK JURORS," reporting a relaxed and playful behind-the-scenes atmosphere.[384] The *Journal* reported that "Frank, the accused man, appeared cheerful, and chatted unconcernedly with friends close to him."[385] Under the heading "COURT SCENES AT FRANK TRIAL; HOW IT LOOKS INSIDE AND OUT," the crowd outside the courthouse was described as "a silent throng… speculating in whispers." Inside the building the people were "laughing and chatting" before trial

and the courtroom spectators were sitting in "quiet curiosity" during the proceedings.[386] During one long trial delay, witnesses in the witness room sang "songs of the old country church…with a zest that rocked the building with music."[387] There was also laughter *by the defendant and his wife* when James Conley made a comment while on the witness stand.[388] The *Atlanta Journal* carried this item during Conley's damning testimony:

> FRANK UNCONCERNED: For the first time since the trial commenced, Frank and Mrs. Frank did not appear to be taking a very keen interest in the proceedings, but laughed and talked together quite a bit.[389]

The audience applause at Rosser's gaffe may have been the most serious breach of courtroom decorum in the four-week-long trial. As reported, that disruption was quickly managed, the offenders ejected—with nary an appearance of anti-religious bigotry.[390]

The Day of the Verdict • Commonly, the myth-of-the-mob archetype depicts the most violent action occurring on the day of the verdict, August 25th. The final day of the trial, when the jury received its instructions from Judge Roan, is that moment of the court proceedings when the fury of "the mob" is said to have been at its peak. It is claimed that knife- and gun-wielding anti-Semites commandeered the courtroom, chanting to the jury "Hang the Jew, or we'll hang you!"

Of course, at no point in the trial were those caustic words spoken; nor were weapons brandished or used. And tucked away in the all-important blow-by-blow trial coverage by the

Atlanta dailies is a significant observation. The *Atlanta Journal* reported:

> All women who were waiting when the doors opened were given right of way into court. Some 175 of them were seated before the officers began to admit the men. And not more than 50 of these latter could get in.[391]

So the proportion of three-and-a-half women for every man—with the women dressed in long dresses and Sunday hats—suggests that the potential for disorder or rioting was much diminished, thus moving the terror legend further and further from historical reality.

But nothing argues more strongly against the charge of a violent anti-Frank courtroom uprising than the sworn testimony of Frank's most vociferous courtroom defender. Reuben Arnold witnessed the enthusiastic reaction received by Solicitor Dorsey when *they both* walked together through the spectators gathered for admittance to the courtroom on the final day of the trial. Arnold seized upon that reaction to call for a mistrial, which meant Arnold himself—having personally claimed to be an eyewitness—had to take the witness stand under oath. The *Journal* then reported:

> **Arnold Testifies** • Mr. Arnold testified that as Mr. Dorsey left the courtroom Friday afternoon he heard loud cheering in front of the court house; that on Saturday he asked the solicitor not to leave the court room until the jury had gotten out of hearing, to which the solicitor readily agreed; that after they had waited several minutes, they thought

> the jury was out of hearing, and the solicitor left the court room with him, Mr. Arnold, walking immediately behind him; that as the solicitor stepped into the street there were loud and excited cheers and cries of "Hurrah for Dorsey;" that in his judgment, these cries could have been heard as far as Alabama Street. On cross-examination by Attorney Hooper, Mr. Arnold testified that he did not know where the jury was at the time, except by information, that he did not hear this trial mentioned by the crowd, and that he did not hear the crowd mention Frank's name.

Arnold, under oath, described the crowd as expressing "approbation" for Dorsey's courtroom expertise. Arnold mentioned no threats, no violence, no intimidation, and nothing even remotely related to anti-Semitism.[392] Frank himself was returned to his jail cell, where he and his wife were "talking and smiling" before she "kissed him smiling brightly."[393] Judge Roan denied the motion for a mistrial.

And now that Oney's 2003 book, *And the Dead Shall Rise*, has become the standard work on the topic, a very interesting thing has happened: the "chanting mob" has vanished as mysteriously as it arrived—suddenly dropped from all the latest works by pro-Frank writers. The recently published *Encyclopedia of American Jewish History* (2008) doesn't repeat the charge at all.[394] Atlanta's own William Breman Jewish Heritage Museum opened an exhibit in 2008 that it considers "the last word" on the Leo Frank case. The exhibition catalogue, edited by Jane Leavey, features the writings of several scholars, including Eli N. Evans, Andy

Ambrose, Clifford Kuhn, Steve Oney, Matthew H. Bernstein, and Leonard Dinnerstein—none of whom repeats the claim that used to be central to the Leo Frank legend.[395] The Breman has offered no explanation for the dropped claim. The 2009 PBS television docudrama by Ben Loeterman goes even further in its production and depicts the courtroom audiences as orderly and attentive, which by all newspaper accounts they were.

It should also be noted that after Frank's trial, there were several official court hearings and appeals—fully discussed in the daily papers—at which there were no crowds, no threats, and no disturbances, not even pickets or protesters; nor were there any marches or rallies. All the judicial proceedings decided against Frank without the "help" of an intimidating mob. Once Frank's twenty-two months of appeals were exhausted and his execution imminent, Governor John Slaton in June of 1915 held clemency hearings, where he considered commuting or vacating the sentence or even pardoning the convict. This is where one might expect the most flagrant manifestations of the fervent hate and violence claimed by so many of the Jewish framers of the case. Not so. Again, there was not even a protest at any time during the well-advertised gubernatorial hearing, reported on by all the Atlanta newspapers.

Once the governor commuted Frank's sentence on June 21, 1915, violence did break out and threats were issued—*but not against Leo Frank or the Jews of Atlanta*: all of the rage was vented at the governor himself, who had to call out the National Guard for his own protection.[396] Albert Lindemann accurately stated,

> A mob formed in town, *but rather than*

> *attack Jews or their property*, it marched to the governor's mansion, armed with an array of weapons, including dynamite… (Emphasis ours)

At a demonstration a sign was affixed to an effigy, which read "SLATON, KING OF JEWS!" but "overt or concrete manifestations of anti-Semitism were few."[397] The Leo Frank home, the National Pencil Company factory, the houses, businesses, and synagogues of everyone associated with Frank's defense—lawyers, witnesses, family, friends, employees, B'nai B'rith associates—were never threatened or disturbed.

"LEE'S GUILT PROVED" DETECTIVES ASSERT

THE ATLANTA GEORGIAN EXTRA No. 8

Headlines immediately after murder show that Blacks and white Christians were suspected—not Leo Frank.

WRITING TEST POINTS TO NEGRO

Experts Declare Note Written by Leo Rosenbloc That Found Near Slain Girl.

POLICE THINK NEGRO WATCHMAN CAN CLEAR MURDER MYSTERY; FOUR ARE NOW UNDER ARREST

CHARGE IS BASEST OF LIES, DECLARES GANTT

EXTRA THE ATLANTA GEORGIAN HOME EDITION

ARRESTED AS GIRL'S SLAYER

JOHN M. GANT ACCUSED OF THE CRIME; FORMER BOOKKEEPER TAKEN BY POLICE

IS THE GUILTY MAN AMONG THOSE HELD?

HORRIBLE MISTAKE PLEADS MULLINAX, DENYING CRIME

STEPFATHER OF DEAD GIRL OUTSPOKEN AGAINST NEGRO WATCHMAN, NEWT LEE

NEGRO WATCHMAN IS ACCUSED BY SLAIN GIRL'S STEPFATHER

NO WHITE MAN KILLED GIRL, ASSERTS LAWYER

SUSPICION LIFTS FROM FRANK; MAY BE FREED; GANTT GRANTED WRIT

DENIES GUILT BUT IS IDENTIFIED AS MAN SEEN LEADING GIRL

THREE HANDWRITING EXPERTS SAY NEGRO WROTE THE TWO NOTES FOUND BY BODY OF GIRL

Did the Atlanta Press "Hang the Jew"?

[Windows] were broken and storefronts were painted—it was a mini-Kristallnacht. That whole proud notion of being Southern and Confederates and Jews was called into question. Those three used to go along happily together.

—Ben Loeterman

The three Atlanta daily newspapers covering the trial have been accused of fueling an anti-Semitic frenzy leading to Leo Frank's conviction and ultimate lynching. But the detailed, daily accounts by the *Constitution*, the *Georgian*, and the *Journal* reflect no anti-Jewish sentiment at all. Incredibly, their reportage, taken as a whole, can be shown to be unreservedly pro-Leo Frank.

And that pro-Frank bias can be tracked from the very first report of the discovery of the dead body of 13-year-old Mary Phagan. An analysis of those early news reports shows that they were actually *protective* of Leo Frank, refusing to cast suspicion on him. One paper, for instance, reported that four men were "arrested" but that Frank was (merely) "summoned to police headquarters."[398]

A *Georgian* report announced that "GUILT WILL

BE FIXED BY NIGHT, OFFICIALS SAY,"[399] and discusses at length the four Gentile suspects: Newt Lee and Gordon Bailey (both Black), and Arthur Mullinax and James Gantt (both white), but it did not even mention Frank, though he was then in custody. The front page of the April 30th edition ("Extra No. 8") of the *Georgian* is titled "SUSPICION LIFTS FROM FRANK; MAY BE FREED," and quotes detectives: "We now have enough evidence to convict Newt Lee." Most troubling is the following passage:

> The statement came at the end of a second long conference between John Black, city detective; Harry Scott, Pinkerton detective[;] and Leo Frank, superintendent of the National Pencil Company factory. *Additional clews furnished by the head of the pencil factory were responsible for the closing net around the negro watchman*…what suspicion had rested on Frank was being rapidly swept away by the damaging evidence against the black man. It was announced that he [Frank] probably would be liberated tonight or in the morning. "It looks a great deal better for Frank, who has been detained only for his own protection *and to furnish further information to the department*," said the detectives.

The newspaper further took great pains to clear Frank of suspicion:

> The police say that Frank is not under arrest, that he was put under police guard for his own personal safety, and that there are no charges against him.

Frank was presented in the report as aiding the investigation, even conferring with detectives on investigative matters. At this stage, when "anti-Semitism" should have been at its height, as was later claimed, just the opposite is found: a Jewish man is actually supplying the information that fuels a potential mob lynching of an innocent Black man, Newt Lee.[400]

Once the investigation resulted in the indictment of Leo Frank, the three Atlanta dailies meticulously followed the trial testimony and the surrounding events. In fact, there is no trial in recent memory in which the print media dedicated as much effort to both reporting and analysis as did the Atlanta newspapers in 1913. Later writers on the case nevertheless appear to have invented a narrative that has little to do with what was actually printed at the time of the trial. Harry Golden's 1965 book *A Little Girl Is Dead* claims that "the newspapers were filled with the most awful stories, affidavits and testimonies, which proved the guilt of Leo M. Frank beyond the shadow of a doubt."[401] More recently, Dartmouth professor Michael Bronski's 2005 article referred to "the virulent antisemitic atmosphere of the city and the local media."[402]

In 2010, Elaine Marie Alphin, author of *An Unspeakable Crime*, claimed that "The front page of the Monday morning *Georgian* showed a horrifying photograph of Mary's body on the slab at the undertakers."[403] But that issue of the *Georgian* has no "horrifying photograph" and specifically casts suspicion for the murder on the four Christian suspects then under arrest—and not on Leo Frank. And no such photograph appears in the *Georgian* on Tuesday, Wednesday, Thursday, Friday, or Saturday. Also, Alphin fails to mention that at the

time of Mary Phagan's murder and Leo Frank's trial the city editor of the *Georgian* was Michael (Mike) D. Clofine, a Northern Jew.

The *Georgian*'s competition the *Atlanta Constitution* "had a Jewish editor and had been, in preceding years, a central vehicle for favorable reporting about Atlanta's Jewish community."[404] Similarly, John Cohen, the son of a rabbi, was the longtime senior editor at the *Atlanta Journal*—and described as *"high in the councils of the Ku Klux Klan."* He was one of several newspaper editors who had "whipped whites into a frenzy" of race hate that ultimately led to the Atlanta Massacre of 1906, which claimed the lives of 50 Blacks, left 150 wounded, and caused over a thousand to flee the city.[405] In 1905, Cohen's paper serialized Thomas Dixon's racist novel *Clansman*, which glorifies the violent terrorism of the Ku Klux Klan and asserts that Blacks in America represented a lethal threat to white society. So perversely captivating was the book that it became the inspiration for the most racially destructive movie ever made—*The Birth of a Nation*.[406]

As Oney points out, after Hearst's *Georgian* appeared to sensationalize the case at Frank's expense, "a protest by the city's Jews…prompted the Hearst paper to reverse course; thereafter, it not only editorialized in Frank's behalf but slanted news stories in his favor." And from then on, Oney continues,

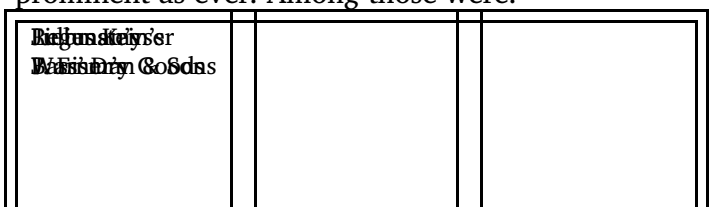
> To the extent that there was bias in the coverage, *it was mostly in Frank's favor*, as both the *Georgian* and the *Journal*, evincing the prejudices of the time, ridiculed the state's star witness—a black factory janitor named Jim Conley…[407]

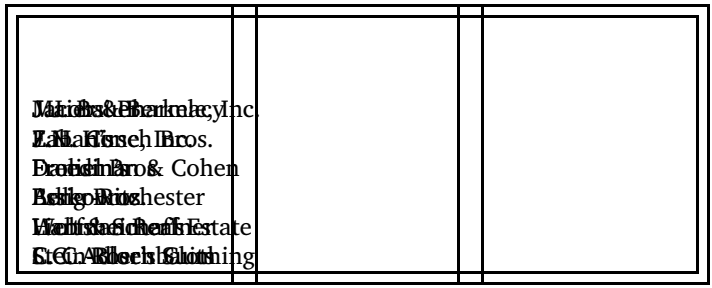
Leo Frank's own lawyer, Luther Rosser, stopped the proceedings in mid-trial to declare, "These boys over at the press table do their best to get accurate facts…"[408] Rosser thus provides our best indication that the Frank team was essentially satisfied with the coverage they had received in the thirteen weeks since the murder.

After his August 1913 conviction Frank's lawyers began filing appeals, and at an October hearing Reuben Arnold freely denounced and derided the judge, the jury, the spectators, and the witnesses in the strongest language. He specifically wanted the judge to juxtapose that assessment against the behavior of the press: "The newspapers have tried to report the case with justice for everybody…"[409]

During that same tumultuous period Jewish merchants freely placed paid advertisements for their businesses in all three dailies. A review of their pages before, during, and after the trial reveals no change in the frequency, size, or message of these advertisements. One might expect that Jewish merchants and business leaders, many of whom were certainly B'nai B'rith members, would express their righteous anger at those supposedly bigoted dailies by simply withdrawing their advertising dollars, which were a significant revenue stream for all the Atlanta newspapers.[410]

The mammoth Jewish-owned Rich's department store had large ads in nearly every issue of the Atlanta papers during the Frank trial. The Southern Merchants Association convened in the city at the same time as the trial, and the ads from Jewish businesses targeting the attendees were as prominent as ever. Among those were:





Most revealing, however, is the advertisement that appeared on the very day that Leo Frank was convicted of the murder of Mary Phagan. It was placed by *Montag Brothers' office supply company*—the owner of the National Pencil Company, the convict's employer! The Montags were heavily invested in defending Leo Frank and it was Sig Montag himself who employed the Pinkerton detective agency the day after the murder was discovered. It is unlikely that the Montags would advertise in an anti-Semitic newspaper, much less one that is persecuting its own Jewish employee. Montag Bros. previously had placed another ad in the *Atlanta Journal* on August 5, 1913, the same day as the sensational testimony of James Conley, urging readers to choose the company to "Buy Your School Supplies."

Rich's department store ever so distastefully advertised the sale of "silver mesh bags" for women—the same type of handbag that Mary Phagan was carrying on the day she was murdered. Testimony had shown that she had left home with the purse but it was never recovered,[411] so Rich's marketing of this particular style of handbag—and placing it in the center of the retail store's main floor—was no coincidence.[412] In the very issue (August 26, 1913) of the *Atlanta Georgian* that carried Judge Roan's death sentence for Frank, Rich's announced that it had entered the last week of its "August Furniture Sale."

A University of Georgia study showed the trial

coverage and the supporting illustrations to be *pro-Frank* in character and content, with "anti-Semitism" being undetectable in even trace amounts.[413] The newspapers' ambivalence about the inclusion of James Conley's testimony was plainly expressed, and their coverage of all Blacks involved in the trial was riddled with incendiary stereotypes and terms like "nigger" and "darky." L.F. Woodruff's commentary on Conley in the *Atlanta Georgian* truly says it all. He titled it "TRADITIONS OF THE SOUTH UPSET: WHITE MAN'S LIFE HANGS ON NEGRO'S WORD":

> He is a negro of the type that the South has been trying since reconstruction to destroy, the meagerly educated, shiftless, gin-guzzling, half-anthropoid black that any nation could well be rid of.[414]

No such language can be found to describe either the man on trial for murder or his religion. The fact is that all three local dailies—the *Atlanta Constitution*, the *Atlanta Journal*, and the *Atlanta Georgian*—provide no examples of anti-Jewish or "anti-Semitic" bias before, during, or after the trial, conviction, and lynching of Leo M. Frank. Not only was the press openly racist as a matter of tradition, but they reported lynchings as routine matters of folk justice. During the period of the Frank trial, articles regularly appeared describing efforts to remove Blacks from government positions simply because they were "negro."[415]

KNIGHTS OF THE KU KLUX KLAN
The World's Greatest Secret Social, Fraternal, Benevolent, Beneficiary Order
THE BIRTH OF A NATION
GRAND
AT JEDGE JOHNSING'S POLICE MATINEE!

The Jewish managing editor of the *Atlanta Journal*, John Cohen, was most supportive of Leo Frank. This is a sample of the paper's racial content during the Frank case. Scholars have claimed that "anti-Semitism" was rampant, but none have mentioned this kind of overt Jewish racism.

Leo Frank's Willing Myth Makers

Observe the operations of the white man. He is successful. He makes no excuses for his failures. He works hard in a collective manner. You do the same.

—The
Most
Honorable
Elijah
Muhammad

After almost a century of energetic circulation, the "Hang the Jew or We'll Hang You" claim is proved to be mere propaganda for the promotion of the Leo Frank Legend. The sheer number of respectable authors that have trafficked in some version of the falsehood is truly breathtaking. Major publishers like Henry Holt, HarperCollins, and Oxford University Press and academic centers like the American Jewish Historical Society, the Jewish Virtual Library, and the American Jewish Archives have allowed the false claim to find its way into the most scholarly works, some being standards in their field. Here are just some of the many published variations on the "Hang the Jew" fable, which was once falsely promoted by these authors and publishers as the *only* truth of the Leo Frank case:

Myth

~~Abraham Foxman, of the Anti-Defamation~~

Anti-Defamation League chanting 'kill the Jew' and 'hang the Jew' could easily be heard through the courtroom's open windows."

"Hang the Jew, Hang the Jew.' This was the cry of the furious mob outside the Atlanta courthouse…"

you!'"

Nathaniel Deutsch, *The Book of the Pale: Knowledge* he was confined the mob chanted: 'Hang the Jew!'"

Arthur Crowell, in *The Gordon Again* the courthouse grumbling for vengeance and howling for his blood."

After the [illegible] was surrounded by a howling [illegible] courtroom and the jury room were open and the cries of the mob—to hang the Jew—could be plainly heard."

"[T]he air about the court room was surcharged with mob violence."

"…fanaticism…fostered by the Protestant Minister's Association…which has manifested itself in a blind fury that would do credit to a Mad Mullah, it is no marvel that justice may have miscarried and that a jury composed of ordinary mortals may have feared for their very lives, with a mob howling and threatening beneath the open windows of the court room."

"Outside the court room a howling mob had gathered, and under the window of the jury room they shouted epithets of hostility to anyone who would stand up for Frank…. '[G]et the Jew' was the most frequently heard expression….the public clamored for his conviction and death. The trial court was terrorized."

"The moment the cry of 'hang the Jew' was raised, the case was made one of interest to every Jew in the United States."

Leo Ballard, *The Lynching of Leo Frank*

Dan Carter, *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics*

Mark Bauerlein, *Negrophobia: A Race Riot in Atlanta, 1906*

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Leo Frank, *The Letters of Leo Frank*

Leonard Dinnerstein, *The Leo Frank Case*

Leonard Dinnerstein, *The Leo Frank Case*

Leonard Dinnerstein, *The Leo Frank Case

courtroom alive if the 'damned Jew' was acquitted."

Nathaniel Beth, (Add official), Address to Keep the Jury Secured, The Party of Patience

Louis Fisher, American Constitutional Crisis: From the Sedition Acts to Guantanamo

Leonard Dinnerstein, The Leo Frank Case

Stanley Feldstein, The Last Lynching

Leo Frank spent his last night in a cell at the Atlanta prison. Outside, a mob gathered, chanting, "Hang the Jew! Hang the Jew!" Governor John M. Slaton, who had commuted Frank's death sentence to life imprisonment, was burned in effigy. Slaton's family received death threats. Frank's lawyers, Luther Rosser and Reuben Arnold, were also threatened. Rosser's wife and children were warned to leave Atlanta for their own safety.

On the morning of August 17, 1915, Frank was taken from his cell by a group of prison guards. He was driven to a remote location in Marietta, Georgia, where he was lynched by a mob of men who had traveled from Atlanta. The mob hanged Frank from a tree and left his body there. The lynching was carried out in the name of justice, but it was a brutal act of vengeance.

The lynching of Leo Frank was a turning point in the history of anti-Semitism in America. It was the first time that a Jewish person had been lynched in the United States. The lynching was a result of the anti-Semitic hysteria that had been whipped up by the trial and the media coverage. The lynching was a warning to Jews that they were not safe in America.

The lynching of Leo Frank was also a turning point in the history of the Ku Klux Klan. The Klan had been dormant for many years, but the lynching of Frank revived the organization. The Klan used the lynching to recruit new members and to spread its message of hate. The Klan's membership grew rapidly in the years following the lynching.

The lynching of Leo Frank was a tragedy that had a profound impact on the Jewish community in America. It was a reminder that anti-Semitism was still a powerful force in American society. The lynching was a warning to Jews that they must be vigilant in the fight against anti-Semitism.

The lynching of Leo Frank was also a tragedy that had a profound impact on the African American community in America. It was a reminder that racism was still a powerful force in American society. The lynching was a warning to African Americans that they must be vigilant in the fight against racism.

The lynching of Leo Frank was a tragedy that had a profound impact on the entire nation. It was a reminder that hatred and bigotry could lead to violence and death. The lynching was a warning to all Americans that they must be vigilant in the fight against hatred and bigotry.

The lynching of Leo Frank was a tragedy that will never be forgotten. It will always be a reminder of the dangers of anti-Semitism and racism. It will always be a reminder of the importance of fighting against hatred and bigotry.

at the trial saying that the Jew should die. Some were yelling things like, 'Kill the Jew!'"

JACK KATZ, "WHAT MAKES CRIME 'NEWS'?" *Critical Studies in American Jewish History*

"Only Matthews, Rather than Leo Frank, Had Been Convicted of Rape and Murder after a Trial by Prejudice in Which Mobs Choked the Courthouse Area Screaming 'Hang the Jew.'"

Gustavus Myers, *History of Bigotry in the United States*

"This Prejudice Was Reflected in Threatening Mobs Choking the Area around the Courthouse and Adjacent Approaches."

Leo Frank Case, *Brief*

"They Gathered Outside the Courthouse Shouting, 'Hang the Jew.'"

Nathan Sidney, *The American Jew: Past and Present*

"There Was Also a Large Crowd Outside the Courthouse Shouting, 'Hang the Jew or we will hang you.'"

Howard Sachar, *A History of the Jews in America*

"Throughout the trial, the crowd outside was reported by the press to chant 'Hang the Jew or we'll hang you.' There were lots of windows being broken."

Stephen Birmingham, *The Grandees: America's Sephardic Elite*

"Crowds Gathered Outside the Courthouse Chanted, 'Hang the Jew!'"

Samuel Tenenbaum, *Why Men Hate*

"They Chanted, 'Hang the Jew or we will hang you!'"

Elaine Marie Alphin, *An Unpleasable Woman*

"The Mob Outside Booed, and Shouted at the Witnesses, the lawyers, the judge, and even the jury. They threatened, 'Hang that Jew, or we'll hang you!'"

Michael Mayer, *The Jew Who Died in Georgia*

"During the trial, the group Rotary Club of Atlanta, Shouthouse would give voice to such sentiments as wanting 'the damned Jew' to be convicted…" "[T]he popular sentiment on the streets…specifically equated Frank's Jewishness with his guilt."

Nina Morais, *The Jewish Spectator*

"Shall We Mention Publicly Prejudices, Which Are an ancient and merciless prejudice? …Reflecting men recall with sober shame the ribald jeers and ravening blood-lust with which disorderly mobs surrounded the scene of his trial and communicated their evil prejudices to the minds of those who decided his

fate."

Peter Gollenbock, *Personal Business: A Memoir of Baseball and Baseball Cards*, 61

Pete Rose: "I, who [illegible] Western Christian! Hardliners, angry Russians besieged in the Fifth Reich!"

† See also Dinnerstein, "Atlanta in the Progressive Era," 145, wherein he makes the same claim. None of Frank's attorneys ever reported this. Neither the judge nor any one of the jurors ever reported this.

Jews in the Philo-Semitic Apartheid South

…at the time of the Phagan murder, Atlanta was a philo-Semitic city. Its assimilated, German-Jewish elite were part of the financial and legal power structure…

—Steve Oney[416]

The city of Atlanta has grown to its present greatness and must depend for its future growth upon young men like myself…

—Leo

An important myth about the position of Jews in the South during the slavery and Jim Crow eras continues to heavily influence common perceptions about the Leo Frank case. Fundamental to the popular legend of Leo Frank is the belief that Jews in the South were somehow outsiders in a peculiarly evil culture and thus more prone to be victimized by the swirl of regional race hatreds. Nearly every published handling of the case is framed by the presumption that the well-known anti-Black racism of the South also extended to Jews; therefore, the fate of Leo Frank must be understood in that violent and xenophobic context. But the history of the American South shows that the "atmosphere" for Jews during the eras of slavery and Jim Crow was not just attractive, but especially welcoming and, most of all, extremely profitable.[418]

The indigenous Creek Nation, decimated by the genocidal European invasion, were forcibly expelled to make way for the African-slave-based plantation system. Jews arrived in colonial Georgia in 1733, 180 years before the murder of Mary Phagan, and they were well integrated in the settlement among their Gentile neighbors.[419] One of the most popular writers on twentieth-century Southern Jewry, Harry Golden—himself a scholar of the Leo Frank case—addressed a persistent theme about Southern Jewish history he was determined to debunk:

> The point I hope to establish…is that this "most Gentile" section of America has provided the most favorable "atmosphere" the Jewish people have

known in the modern world.[420]

Golden was speaking specifically about the American South. The reverence that most bible belt evangelical Christians held for the "People of the Book" placed Jewish immigrants in a special class. Their presence was even taken by many southern Gentiles as a sign of God's favor and His endorsement of their slave-based society. In fact, Christians in the American South were time and again militantly protective of *their* Jewish population.[421]

A century and a half before New York became the focal point of Jewish life, wealthy and cultured Jews thrived in the large elite community of Charleston, South Carolina. The city was both a major slave-trading center *and* the birthplace of Reform Judaism, the branch of religion to which Leo Frank belonged and with which most Jews identify today. Since the earliest times Georgia's Jews had enthusiastically performed their sacred Southern duties as slave masters and slave dealers, and all had shared in the benefits of the African slave trade. In 1901, the *Jewish Encyclopedia* made an astounding claim that put Jewish Americans at the epicenter of the slavocracy:

> [T]he cotton-plantations in many parts of the South were wholly in the hands of the Jews, and as a consequence slavery found its advocates among them.[422]

The slaveholding Charleston rabbi Gustavus Poznanski summed up the Southern Jewish American credo:

> This [Charleston] synagogue is our temple, this city our Jerusalem, this

> happy land our Palestine, and as our fathers defended with their lives that temple, that city, and that land, so will our sons defend this temple, this city, and this land.[423]

After the Civil War Atlanta became the region's new urban and industrial center, attracting enough of their faith to have the largest population of Jews of any city in the South. Jewish upward mobility was described by Albert Lindemann as "more striking in Atlanta than in most northern cities,"[424] and Jews routinely held positions of public trust in this ultra-Christian, militantly white supremacist region. At least twelve Jews held office in Jim Crow Atlanta between 1874 and 1911—considerable representation for a group that never exceeded three percent of the total population.[425]

In 1875, Aaron Haas became Atlanta's first mayor *pro tem* and his nephews Herbert and Leonard would become Leo Frank's lawyers in 1913. Joseph Hirsch, a millionaire clothing merchant, cotton-goods manufacturer, and city council member, and other prominent Jews led in the establishment of Atlanta's racially segregated Grady Hospital. Scholar of Southern Jewry Mark K. Bauman maintains that of all the immigrant groups, the German Jewish community particularly "exerted power beyond its size so that it wielded considerable political influence and preferment." Jews played a disproportionate role in the city's economy, a high proportion being merchants, wholesalers, and tradesmen. According to one scholar:

> [Jewish] business leaders owned many of the largest commercial and manufacturing enterprises that provided

employment for many local citizens...[426]

Jews were partners in their own and Gentile law firms; they sat on grand juries; they served as bank founders, presidents, and officers; and they became officials in the chamber of commerce. “From 25 to over 35 percent” of freemasons and many of the highest officers in the Masonic order were Jews.[427]

Praise of Jews by their Gentile neighbors was effusive, as in this 1890 statement from an Alabama merchant extolling the “Hebrews of Atlanta,” in the pages of the *Atlanta Constitution*:

> [T]here is no one element in this city’s make-up more powerful than that. Look around you in any and every business, in every walk of life, and you will see that the leaders are the Hebrews. Everybody must admire the wonderful business capacity with which the race seems imbued, and everybody who makes any study of their home life will agree with me when I say that no people in the world are happier in their homes, none are better to their kinfolk, and none are better to the poor and needy….No religion has such well organized, such sensible and such beautiful charities…

In that same year, a Jewish man surveying his own people’s accomplishments crowed:

> Here in Atlanta, they [the Hebrews] are found in all walks of life, and they own, I suppose, between two million, five hundred thousand, and three million dollars’ worth of property. That is a conservative estimate.[428]

The editor of the Atlanta-based *Jewish South* was bursting with justifiable optimism about the fortunes of Southern Jews when he wrote in 1878:

> [A]lthough [Judaism's] growth in all sections of this land of the free has been most prosperous, still the South succeeded in producing the loftiest of fruits, of the greatest bounty and grandeur.[429]

> The Jews in Georgia, however, did more than merely become a part of the existing Georgia tradition. In many instances, *they created, shaped, and influenced both the character and course of many of those traditions and institutions.* [Emphasis ours][430]

When the home of National Pencil Company shareholder Oscar Pappenheimer burned down in May of 1914—*one year since Mary Phagan's murder in his factory*—the Atlanta police formed a cordon around the house to guard it overnight. It seems that Pappenheimer's jewelry collection was one of the most valuable in the city. Destroyed were "the finest pipe organ in a private home in Atlanta," three Steinway pianos, and "prized violins and cellos."[431]

Jewish Racism in Georgia • Jews reveled in their position as leaders among the many ethnic Europeans that settled the American South. No public position was denied to them, and the positions they attained found them eagerly swearing a solemn oath to uphold the sacred tenets of the Jim Crow legal system—a system indistinguishable in its function and cruelty from that which is said to have victimized the Jews in

Nazi Germany. In fact, from the very beginning of their presence in the state, Georgia's Jews were completely untroubled by the extermination of the Indigenous land owners, or by the region's total reliance on Black African slavery and all its accompanying evils. They participated in the violence and terror that framed the slave system and stood elbow to elbow with all whites as slavery's most ardent enforcers.[432] Jews embraced the race laws of America voluntarily and encouraged their Gentile neighbors to adhere to them unquestionably. It would take the Thirteenth Amendment, passed in 1865, to end American slavery *legally*, but a full thirty years later in 1896 the editors of the *Jewish South* newspaper opined, "Negroes are intellectually, morally, and physically an inferior race—a fact none can deny."[433]

One "cultured Southern Jew" saw the freed Black man and woman as such a distinct curse on his own citizenship that he wrote: "The extermination of this race is a necessary consequence of this state of affairs." Those words of genocide against Blacks were not uttered in the hushed tones of a secret society meeting or in a remote cornfield under a burning cross, but published in a respected Jewish newspaper.[434] Charles Rubin, a Polish immigrant growing up in Georgia, recalled:

> I heard the term "nigger" used by Jewish sons of immigrant parents with the same venom and contempt as the term "Zhid" was used in the old country [against Jews].[435]

The Ku Klux Klan emerged after the Civil War to violently force Blacks back onto the plantation to perform the requisite manual labor so essential to

white survival. Jews who held critical positions in the region's economy were well aware of its Black foundation. So it is no surprise that Jews were actual members of that terrorist group and provisioned it with material support.[436] The respected Atlanta resident Harry Simonhoff wrote with incredible irony, "A lingering tradition of *religious tolerance* made it possible for Jews and Catholics to be members of the night-riding group."[437]

Isaac Hermann of Sandersville, Georgia, was a Confederate veteran and a full-fledged Ku Klux Klansman. He firmly believed the ex-slaves' "best protectors were the old masters who had so lovingly provided for them." Judah P. Benjamin, considered the most important Jew in the history of the South, was not just the enslaver of at least 140 Africans: he was so important to the South's mission to maintain slavery, his face was imprinted on the Confederate money. After the Civil War he fled to England, wherefrom he actually financed—with money from the sale of slave-picked cotton—the creation of the original Ku Klux Klan.[438]

There were many Jews who believed as did Frank J. Cohen, editor of the Atlanta weekly the *Jewish Sentiment*, when he said, in perfect harmony with Klan doctrine:

> The white man will rule by fair means or by foul….God Almighty never created the negro the white man's equal and even an act of Congress will not change the trend of nature or swerve the white man from his determination to retain his supremacy.[439]

In 1898, Cohen openly voiced his opinion of the

gory American lynching tradition:

> [T]he white man is not only superior to the black man, but will assert his supremacy at the proper time and in the proper manner.…[440]

Two weeks later he wrote:

> North Carolina has recently done herself proud while several other states have had dignified hanging bees [lynching parties] —provoked by the usual cause….Those negroes who conduct themselves properly, are respected and protected, but the lawless brute who violates the sanctity of the white man's home deserves death and usually receives it with electrical swiftness.[441]

And again on August 11, 1899:

> The primary needs of the negro race is [sic] obedience to the law and recognition of the rights of others….If the unmentionable crime against womanhood is persisted in mobs in the future will deal with him as they have in the past.

Writer Bernard Postal reveals yet more layers of Jewish complicity in Black suffering—at the hands of the most notorious organization of American terrorists of all time:

> [T]he attorneys for the dragons, kleagles and other officials *have not infrequently been Jews*. Similarly it has been shown

> that the manufacturers of the ubiquitous Klan night-gown have frequently been Jews. The present Klan has on several occasions insisted that it is not an anti-Semitic organization, a statement partially borne out by the fact that there are unquestionably Jewish members of the Klan in many states.[442]

Many writers have claimed that the Leo Frank trial rejuvenated the Ku Klux Klan, but not only is that claim untrue, such a feat would have been unnecessary. The very day Mary Phagan was murdered, April 26th, 1913, was a holiday as revered in the South as Christmas is in the North. Confederate Memorial Day closed Atlanta to honor those "sons of the South" who had actually attacked America and started a war that killed 850,000 Americans, all to maintain and expand African slavery. Leo Frank himself claimed to have been writing a letter to his uncle at the very time of the murder—a letter in which he reverentially references the "thin gray line" of Confederate veterans parading outside his factory.[443] Frank's prominent Jewish backers found no inconsistency in trying to solicit the notable attorney Thomas E. Watson to defend Frank, though Watson was at the time the outspoken ideological leader of the White Supremacy Movement in the state of Georgia.[444]

A decade after the lynching of Leo Frank, the KKK had an office *next door* to the headquarters of the Federation of Jewish Charities. In 1925, Atlanta Jews held a fundraiser, and Governor Clifford Walker and Mayor Walter Sims—both well-known Klansmen—"attended the affair as guests of honor."[445] Ironically, Anti-Defamation League national board member Dale Schwartz, the attorney who relentlessly pursued a pardon for Leo Frank in

the 1980s, grew up in a merchant family in Georgia that knowingly sold disguises to Ku Klux Klan members. He said that "whenever we sold a lot of white sheets we knew there was going to be a Klan meeting."[446]

As elsewhere in the South, Atlanta Jews applied their extraordinary political and economic power in support of the racial status quo. White gangs met and organized at the O.H. Silverman Co. building before their reign of murderous terror in the Atlanta Massacre of 1906.[447] Pawnbrokers Morris and Samuel Greenblatt, at 123 Peters Street, supplied the racist Atlanta sheriff John Nelms with guns after he spread the false provocation that "The outrages upon white women must stop if every negro in many miles of Atlanta have [sic] to be killed." Of the dozens of Blacks murdered, it is unknown how many were deaths involving guns supplied by the Greenblatt Bros.[448] That same year a Jewish member of the Carnegie Library Board voted to deny Black Atlantans access to the public library. Foreshadowing the anti-Jewish humiliation policies of the Nazi era, Atlanta industrialist Oscar Pappenheimer,

> wishing to distinguish between industrious and vagrant Negroes, suggested that all blacks be compelled to carry documents which would indicate their appearance, employment, abode, and prior conduct.[449]

Pappenheimer was a major stockholder in the National Pencil Company and one of the company's officials who received Frank's weekly financial statements.[450] Unfortunately, the acts of Jewish racism cited above "were not isolated incidents" and betray instead a consistent and well-established

Jewish pattern.[451]

Despite existing at opposite poles of Georgian society, Blacks and Jews were often found in intimate but dysfunctional association. The recent Eastern European immigrant Jews nursed themselves into "a major force" as peddlers and retail merchants selling over-priced inferior goods in the post-slavery Black shantytowns.[452]

Moreover, the Jewish merchants "trad[ed] in all things with African-Americans," including such socially destructive commodities as beer, wine, and liquor. And in so doing, as one scholar writes, the merchants were "not so much providing the lifeblood of the black community, as injecting it with poison."[453]

Black servants in Jewish homes and businesses lived in "negro tenements" and one-room shacks "clustered in alleys behind Jewish homes."[454] Blacks provided a cheap, immobile, and optionless labor pool for the "People of the Book," but they also served to "deflect local prejudices, which might otherwise have been directed against Jews."[455]

Even with this critical Black sacrifice in behalf of Jewish progress, there is no record of a single Jew using his office or influence to fight for a color-blind legal system—before, during, or after slavery right up to and long past the time when Leo Frank was charged with the murder of Mary Phagan. According to Steven Hertzberg, "There is little evidence to suggest that any of Atlanta's Jews desired a greater amelioration in the condition of blacks"; rather, they "clearly benefited from the system of white supremacy."[456]

Georgia laws specifically targeted Blacks—not Jews—and were designed to keep Blacks separate, defenseless, and exploitable. Blacks could not be

buried in the same cemetery as whites; nor could they eat in the same room, ride on the same automobile or railroad car, or co-mingle with them in any way; barbershops were racially separate (though Black barbers could tend to white male patrons); whites and Blacks could not even serve time on the same chain gang. The 1914 "Wood Amendment" to the segregation law gave a white citizen the right to object to a Black person moving next door to him.[457]

Ten years *after* Leo Frank murdered Mary Phagan, Atlanta's city council officially set up separate residential districts, and in 1931 it became illegal for a member of one race to move into a house that had been previously occupied by another race (Jews, by the way, were incontestably white). Sports teams could not play within two blocks of a playground set aside for another race, and movie theaters, pool halls, and other places of amusement had to serve one race or the other. According to law, "any ascertainable trace" of Black blood in the veins of anyone made them by law "colored."[458]

All of this madness was in full-fledged operation with the full participation of Jewish Georgians, even as Adolf Hitler was said to be fashioning the exact same set of laws against Jews an ocean away. Georgia's racial codes drew not a trace of Jewish indignation or protest.[459] Perhaps the most poignant testimony came from the chosen leader of the Jews in Georgia, who told a journalist that the African American *"had no value in the South."*[460] That harshly racist assessment came from none other than the elected president of the Atlanta chapter of B'nai B'rith, Leo M. Frank.

So Jews clearly entered the Leo Frank drama in 1913 as privileged leaders of Atlanta's white society. Anti-Semitism was unheard of and nowhere

experienced, and went unexpressed if anywhere believed. Jews were highly regarded by the Gentile elite as useful, industrious, and even indispensable to the city's fortunes. The Gentiles embraced and assimilated with their Jewish brethren without hesitation, and both Gentile and Jew carried these religio-racial dynamics into the most explosive case in Georgia history.

Was James Conley "Coached"?

It is hard to conceive that any man's power of fabrication of minute details could reach that which Conley showed, unless it be the truth.

—
Governor
John
Slaton

[T] he best nigger I have ever seen.

—Leo
Frank

For one hundred years believers in the innocence of Leo Frank have grappled with his resounding judicial defeat by claiming that the trial testimony of James Conley[461] was a story entirely fabricated and fed to him by police and prosecutors. In this configuration Conley is the puppet with an incredible knack for delivering a prepackaged storyline. The alternative charge is that Conley himself made up the entire tale and masterfully deceived the entire American justice system right on up to the United States Supreme Court. Steve Oney fluctuates between the two:

> Conley was either the most infamous and creative liar who has ever walked the face of this city, or he was set up. It's one or the other. And I choose to believe that he was a great, great liar...[462]

Thus, Oney appears to be making two competing claims—that the white men who prosecuted Frank were engaged in an anti-Semitic persecution, but that, contrarily, they were all innocent victims of a negro Svengali. He does not feel obligated to prove either, or to reconcile the conflicting claims. The traveling stage play about the case, *Parade* by Alfred Uhry, chooses the former, making Conley a co-conspirator with the politically ambitious prosecutor Hugh Dorsey.

Luther Z. Rosser, frustrated in court by Conley's impenetrable testimony, introduced the coaching charge:[463]

> Q. How many times did Mr. Dorsey see you in jail?

A. About three times.

Q. How many times did he see you at the police station?

A. About four times.

Q. Then it took Mr. Dorsey seven visits to get your story straight? Why didn't you tell it all before he had been to see you seven times?

A. I didn't want to tell it all at first.

Rosser did not try to prove the point; nor did the Frank defense team press the issue in any of their trial appeals—only in rhetorical outbursts did this charge get an airing. And it is more likely that Rosser's claim was the result of his having been professionally bested in open court by two "niggers" and thus needing a worthy white adversary to take the blame for his own defeat. After the trial Reuben Arnold added to the alleged plot the female witnesses who exposed Frank's "lascivious" character—but in a newspaper interview, not in any official proceeding:

> These witnesses were all hostile to Frank. They were coached, rehearsed, prepared to tell their little tales, and, had we cross-examined them, there is no telling on God's earth what they would have been ready to tell. The Lord only knows what fabrications they would have put before the court. *The prosecution had a regular school for training and rehearsing its witnesses*, and whoever was the most perfect—remembered his or her story the

> best—was put at the head of the class. Therefore, we would have made a very, very disastrous mistake in cross-examining any of them. The state, in obtaining its witnesses, gave a bid to the discharged employee, the men or women who hated wealth and was [sic] willing to defeat it in the spirit of the anarchist, and the basely ignorant persons who were prejudiced against the Jew. We were trapped. We were between a conspiracy hatched up by Dorsey and his colleagues, the detectives, and a jury untrained in weighing the evidence and too frightened to do so had they been properly trained.[464]

But the only evidence that has ever been offered to support the serious *felony* of coaching witnesses to perjure themselves is the fact that Dorsey several times interviewed Conley[465]—a routine procedure in criminal cases. Frank himself attaches nefarious aims to those meetings:

> ...Conley was continuously under the tutelage of the detectives and the solicitor [Dorsey], having seen the latter seven times. It is passing strange that in the working up of a case a witness upon whose testimony so much depended should be so tenderly nurtured and so often visited by the prosecuting attorney.[466]

Again, this all must be consigned to defense posturing, for no details were ever supplied and no complaint was ever filed; nor were charges ever levied. Arnold's alleged "*regular school for training*

and rehearsing its witnesses" was never mentioned again.

Leo Frank, however, thought there was no inconsistency in the fact that *several* of his own attorneys and hired detectives visited him daily while he was incarcerated, in an area of the jail cordoned off just for that purpose. They planned out his defense strategy and carefully rehearsed with him his own *unsworn* trial statement.

The alleged coaching to give perjured testimony —as opposed to coaching in presentation skills (i.e., diction, manner, control of emotions, etc.)—would have to have been quite an involved process, given that Conley's testimony was nearly sixteen hours, the longest in the state's history.

Yet the alleged coaching scheme utterly collapses under the weight of its own absurdity. That white men of prominence and standing in Jim Crow Georgia would conspire to embrace and protect "a low type of negro" *guilty of the rape and murder of a white child*, in order to pin said crime on a prominent white man, is the scenario that Frank's supporters demand the public to believe.

The co-claim—that Conley could bamboozle the entire court system, the press, and the public, in the state with the highest lynching rate in the Union—is equally absurd and self-evidently preposterous. The observation by University of California historian Albert Lindemann is telling:

> Even today, one must wonder how Dorsey himself could have embarked on such a risky enterprise as coaching Conley in a fabricated testimony, knowing him to be guilty and surely knowing what experts in cross-examination could do to a witness who

> had concocted an elaborate false testimony. It seems, moreover, unbelievable that Dorsey and the other lawyers for the prosecution, [Frank] Hooper and [Edward A.] Stephens, could have been so reckless as to thus risk a humiliating collapse of their case against Frank. And what might have happened to their reputations and future careers if Conley, having broken down in full courtroom, had testified that Dorsey coached him in false testimony?[467]

Conley recounted instances and events that had no bearing on the case—all of which could be traced for verification. His recollection of walking Atlanta's streets together with Frank through an open market with many customers, for instance, placed Frank out in the public with a man Frank says he never saw on the day of the murder. No prosecutor concocting a tale for a witness would have allowed so many chances for refutation.

In addition to that, some of the most damaging parts of Conley's testimony were about Frank's history of sexual activities at the factory—*not about his actions on the day of the murder*. His revelations helped build the prosecutor's charge that Frank had developed a system and pattern of sexual encounters with young girls in which he intended to entrap Mary Phagan. So the alleged coaching would have to have included a range of time and events spanning months, rather than just those activities occurring on the day of the murder.

Further, it is clear both the prosecutor and the defense knew what Conley *could* say on the matter of Frank's sexual affairs, but there was but a minuscule chance that the subject would come up

at trial. By Georgia trial rules, it would be entirely up to Frank's defense lawyers to raise the specter of their client's character, and Dorsey never would have expected that Frank's highly experienced attorneys would so easily subject their client to that swamp of unseemly evidence. In their *pre-trial* analysis, even the amateur trial speculators at the *Atlanta Constitution* discussed the remoteness of that possibility, stating that there is not "one chance in a hundred" that Frank's team would allow this line of attack.[468] To everyone's astonishment, Frank's legal eagles flew right into that swamp, and when they did, Conley was just one of many who convincingly testified to the sleazy side of Frank's personality—none of the testimonies conflicting with the known facts or with each other. So the "coaching" of Conley to convincingly recite testimony that had the most improbable chance of being heard would have been an extraordinarily time-consuming and fruitless effort, and a professionally perilous gamble.

The coaching of a witness to commit perjury in a trial setting presents its own set of difficulties, but the coaching of a witness to physically reenact a fabricated set of behaviors poses an altogether different set of challenges. On May 30th James Conley was taken from jail to the scene of the crime, where he walked officials and reporters through the National Pencil Company demonstrating his involvement in helping Frank conceal Mary's body. According to those reporters who witnessed the scene, Conley did not appear to be concocting anything:

> The negro's pantomime was thorough in detail. He overlooked no part depicted in his astounding confession of the night before. He often even lay down upon the

> floor so as to minutely picture the position of the victim's body at certain stages of its removal into the cellar. With wavering voice, that frequently choked slightly as though from some tragic recollection of the grim occurrence, he verbally explained his actions on the murder day.[469]

Another consideration that factors against the coaching claim is that Conley is but one of many whose corroborating evidence had to synchronize with his storyline. Indeed, Hugh Dorsey would have had to stage-manage an elaborate choreography of "anti-Semitic lies" and evidentiary fabrications, starting with two of the most prominent and staunchly independent detective firms in America, the Pinkerton and the William J. Burns agencies. Neither was based in Georgia, and it is highly unlikely that either would risk its national reputation to join in with the "anti-Semitic" scheming of some politically ambitious local prosecutor. Moreover, both these nationally known competitors, whilst they were both on Frank's payroll, *independently* concluded that Frank did indeed murder Mary Phagan.

At least fourteen white witnesses corroborated Conley's story. Someone would have had to "coach" them all (and keep them quiet) in this grand conspiracy. Those falsified, perjured testimonies would have had to be scripted and coordinated to be even remotely convincing to an all-white male jury, to a white judge who had exhibited a clear pro-Frank bias throughout the trial, and to a white press that was competing daily to bring out every nuance of the trial.

And all those cooperating white witnesses, none

of whom were under any legal burden, would have had to *agree* to be part of an illegal scheme to lie under oath not only to protect a *lower-class negro murderer* but to knowingly place a noose around the neck of their *innocent* employer, a prominent white man. As we will see, Frank unleashed a veritable army of strong-arm agents and dumped piles of cash on the so-called factory girls, inducing some of them to recant their damaging testimony. But in their recantations—often temporary—none of them described a "regular school" for coaching witnesses. Ultimately, despite the defense pressure, all of these witnesses recanted their recantations, some even adding more lurid details about their dealings with Leo Frank.

A measured assessment of the "coaching" charge inevitably finds the very idea collapsing of its own absurdity. Det. William J. Burns was rehired by Frank for his post-conviction extra-judicial operations, and he ultimately admitted that the talk about Dorsey being prejudiced (meaning "anti-Semitic") was "bosh." "The solicitor has done no more than to prosecute an important case in a very vigorous and capable manner."[470]

Coaching Charges Persist • The latest incarnation of this "coaching" claim appears in the 2009 PBS documentary series *Frontline,* which aired a 90-minute "docudrama" by writer, producer, and director Ben Loeterman, titled *The People v. Leo Frank*. With Steve Oney listed as chief consultant and the Anti-Defamation League of B'nai B'rith sponsoring many screenings of the film, the production must be taken as the "official" account of the case by the believers in Frank's innocence. The film departs from many well-worn tropes, but it adds others. After nearly a century of recriminations, the production *clears Dorsey* entirely

of the “coaching” charge. Instead, Loeterman, following the thesis of Oney’s book, advances the notion that Conley’s attorney, William Smith, “coached” his client in his testimony at the trial.

William Smith

Smith entered the case at the end of May once James Conley opened up to police about Leo

Frank's role in Mary Phagan's murder. The *Atlanta Georgian* hired Smith to be the lawyer for the destitute and friendless factory sweeper as he sat in the Fulton County jail. The *Georgian*'s editors were not interested in Conley's civil rights; instead, in the cutthroat competitive climate of Atlanta's three daily newspapers, they were angling for inside information about the case and the state's star witness.[471] In his *Frontline* tale Loeterman conceals Smith's *Georgian* connection but shows him tutoring Conley on how to tell a bullet-proof tale in court. Loeterman's is the first and strongest statement ever made on the alleged *coaching process*.

But Smith also eludes condemnation by Frank partisans because after successfully "coaching" the testimony of Conley, it is said that Smith went through a soul-searching process that resulted in his shifting his allegiance from his own client to Leo Frank. Loeterman's tale nevertheless has fatal weaknesses that buckle under the most elementary analysis. It is true that after the trial and conviction of Frank, Smith turned against his Black client and claimed to believe in his guilt.[472] But in his highly publicized pirouette, he provided no proof of that claim, and there is evidence that suggests that Smith may have succumbed to defense pressure—not to a guilty conscience. And here is where Oney and Loeterman's thesis loses its steam.

If Smith were the primary "coach" of James Conley, Smith could have *detailed* his role in preparing Conley for perjury, but in the 36 years he lived after the trial (he died in 1949), Smith never revealed or intimated any such nefarious consultations with Conley—sessions that Oney refers to as "midnight séances." Smith did not reveal his interactions with Dorsey or the police or other witnesses, all of whom would be needed to

properly coordinate any perjury; nor did he charge that "anti-Semitism" played a part in his own or anyone else's actions. Had he done so, it would have provided enough evidence to free Leo Frank and hang James Conley. It would have broken the back of the prosecution's case and exposed the supporting witnesses as utter frauds. Smith's oddly worded statement to the press really didn't amount to much at all:

> I am sure that investigation by the proper authorities will prove conclusively that the black is the man who is the slayer.[473]

Steve Oney is the source for this threadbare coaching-by-Smith theory, but surprisingly he devotes but a single paragraph of his 742-page book[474] to this alleged coaching, in which he writes that "Over many long evenings" Smith trained Conley in the presentation arts:

> [T]he lawyer edified his pupil on the rules of discourse, stressing the importance of enunciation, timing and maintaining eye contact with an audience. Then Smith, a fair mimic, gave the Negro a taste of Luther Rosser's corrosive manner, preparing him for the inevitable courtroom encounter.

Oney's description makes no mention of perjury and points only to that advice all trial lawyers offer their clients. He nonetheless provides but two sources for his "coaching" claim: (1) his own 1986 interview with William Smith's youngest son, Walter, who was *not yet born* at the time of the Leo Frank affair and thus has no firsthand knowledge of the alleged process; and (2) Leo Frank's own

writings—though he was in jail at the time and thus could only offer self-interested speculation. None of Oney's "account" is attested to by William Smith himself, nor by jail officials or newspaper reporters, nor by Frank's extensive staff of attorneys and private investigators.

The Oney–Loeterman theory leaves more questions than answers, thus compromising itself in the process. In the end, the charge of "coached" testimony, subornation of perjury, or witness tampering has no reliable foundation and leaves Leo Frank exactly as the jury sentenced him—duly convicted of the murder of Mary Phagan.

"I Disremember": The Jewish Mockery of a Black Man

Luther Z. Rosser's disastrous cross-examination of James Conley only gave Prosecutor Hugh Dorsey more rope to hang Leo Frank. One part of that confrontation requires a closer look. As Rosser's game plan collapsed in open court, he resorted to an interrogation tactic that was designed to elicit from Conley the repeated response "I don't know." In the abstract the repetitive answer "I don't know" makes Conley appear to be evasive, or to have a selective memory, or even to be coached. Frank's supporters argue that it is suspicious that Conley's mind seemed so clear in testimony against Frank, but murky and even vacant when Rosser posed questions to him in Frank's defense. Harry Golden spoke for them:

> That Conley had a poor memory was patent. It seemed he could only

> remember the crime and Frank's "perversion." As he continued, Rosser made Conley admit he was a liar.[475]

The key to understanding this testimony, however, is not in the *memory* of James Conley, but in the *substance* of Rosser's questions. His questions were designed to demand such detail that few could reasonably be expected to answer them with any accuracy. To wit: Rosser asked for details about the several times Conley acted as lookout while Frank had sexual trysts at the factory:

> "How was she [one of the women] dressed that night?" Conley's answer: "I disremember."
>
> Referring to another time, Rosser demanded, "Give me a description of those young ladies." "I disremember what the ladies did have on."
>
> "What did you do the Saturday *before* you watched for him the first time?" "I disremember."
>
> "[What did you do] the Saturday *after* you watched for him the first time?" "I disremember."

Rosser asked Conley for exact days when he was paid on the weeks that he watched for Frank. He asked Conley whether he had seen another factory employee on a specific day (of the five days he had watched for Frank), and he asked who worked at the factory on Conley's days off. He asked Conley for the color of a man's eyelashes. He asked Conley what the wages were of other employees, and what

"habits" and schedule they had in getting paid. He asked Conley to describe a man's clothes the *second* time he saw him.[476] To all these types of questions Conley answered, "I disremember" or "I don't know" or "I don't remember." What's more, Rosser was interrogating Conley about incidences that had occurred over a period of a year ending in 1912. But on the crucial and relevant details of the April 26, 1913, murder, which had occurred just three months before the trial, Conley was clear and lucid, his testimony incontrovertible.

So Conley's alleged selective memory must be viewed in the context of the leading questions he was being asked. Leo Frank's performance as a witness, however, has never been considered for its veracity and degree of forgetfulness. Conley's testimony was given about 100 days from the April 26 murder. Frank's only actual *sworn* testimony in an official hearing came just ten days after the murder, during the coroner's inquest, on May 5, 1913. There Frank underwent approximately four hours of questioning about his activities on the day of the murder.[477]

The *Atlanta Constitution*'s account of Frank's absentmindedness covers only a small portion of his four hours on the stand, wherein he evasively answered "I don't know" to many easy questions: Can you name the guests at the party at your house April 26? Frank's answer: "I don't remember them all." There were seven, and his own mother-in-law said that Frank spoke with them for twenty minutes.[478] What topic was discussed at home? Frank's reply: "I don't remember." Indeed, all of the family claimed to "disremember" ANY topic of conversation at that dinner party. More of Leo Frank's responses, taken from the *Constitution* articles, are counted and catalogued verbatim:

I don't remember 10

I don't recollect 2

I did not notice 2

I don't know 2

Not that I remember 1

I don't recollect that I did 1

I can't recollect 1

No, I forgot 1

No, I don't 11

I don't remember, precisely 1

The *Atlanta Journal* recorded similarly Frank's answers to the coroner's questions about his movements on the day of the murder:

I didn't notice 3

I don't remember 3

I don't recollect 1

I don't know 1

I wasn't asked 1

At the same hearing, Leo Frank's father-in-law, Emil Selig, was asked about Frank's reaction on Sunday to the homicide at his factory the day before: "He seemed unconcerned" and "I didn't remember" Frank mentioning the murder the rest of the day. His mother-in-law, Mrs. Selig, coldly testified that Frank "mentioned it casually" and that she "didn't attach much importance to it."[479]

The *Atlanta Georgian* reporter heard Frank answer "I don't remember" so often that a section heading of the article was titled "OFTEN DOES NOT REMEMBER."[480]

I don't remember 8

I did not notice 1

I don’t remember them all 1

I don’t remember saying anything to her 1

I don’t recollect 1

I don’t recollect that I did 1

It should not escape the notice of students of the case that this “I-don’t-know” refrain of a seemingly forgetful and unobservant engineer is exactly what landed the factory superintendent on trial for murder. To Mary Phagan’s last known question, “Has the metal arrived yet?” Leo Frank gave the fateful response, “I don’t know,” before leading her, the prosecution successfully argued, to her doom.

Leo Frank's Fight for Redemption

[I] n all the annals of jurisprudence in the South, there never was the word of such an [unaccountable] roustabout and criminal…as [Conley] , taken in preference to that of a clean and honorable white man as in our case. It seems too ridiculous to consider even for a moment.[481]

—

Rudolph Frank, father of Leo Frank

Judge Leonard S. Roan scheduled Leo Frank's public hanging for October 10, 1913, but no one who understood Frank's position at the top of

Atlanta's Caucasian Jewish hierarchy believed that he would actually "swing" on the day prescribed. There was yet a long legal road to come of appeals, motions, and filings that would push the execution further and further into the future.

The condemned man and his advocates saw that the potential for a reversal of his conviction within Georgia's legal system was unlikely, but that would not stop them from pursuing every possible angle. And though Frank received the longest and most expensive trial in the history of Georgia, was represented by the cream of the Southern establishment's law firms, and had the services of two of the best and priciest private detective agencies at his command, the Frank team understood that to save their man from the gallows they would have to adopt a new, more dynamic, strategy that took his fate out of the hands of the judiciary and put it into the much more manipulable court of public relations.

The Frank team's post-trial plan recognized the need to broaden Frank's support base to include a national and international audience, for Georgians had by and large accepted that Hugh M. Dorsey had proved his case in a fair trial. Atlanta Jews were among those who accepted the verdict as regrettable but fair. According to two pro-Frank advocates, the city's Jews "did not, in fact, assume an active role on Frank's behalf,"[482] and, further, wrote Harry Golden, they really "felt no sympathy for [him]." He reiterates that "Five *prominent members* of the Jewish community were on the grand jury and all voted with the majority to indict him."[483] DeWitt Roberts, writing about the case for the Anti-Defamation League, observed:

> Apparently, except for close personal

> associates, his family and in-laws, Herbert Haas, some members of the [Atlanta] *Journal* staff…and Rabbi Marx, no one believed Frank innocent until after his conviction.[484]

Remarkable for its absence is a record of activities by the Jewish organization that Frank himself led—the Atlanta chapter of the fraternal order of the B'nai B'rith. The official history of the organization does not even mention the case that is credited with birthing the group's own Anti-Defamation League.[485] Its first action was recorded a month after the trial, when the Atlanta lodge symbolically re-elected Frank in an apparent statement of protest and support. It is ironic, though, that in that same election Arthur Heyman, Hugh Dorsey's law partner, was elected as Frank's vice president.[486]

So with a troubling dearth of local support from his own people, Frank's forces looked out of state to the broader world to bring pressure to bear on Georgia, its press, its people, and its judicial and economic systems. But to persuade outsiders to become actual crusaders for Frank's cause would require that they become acquainted with the case entirely from the convict's point of view.

Georgians closely followed the trial through the extensive coverage by the three Atlanta dailies, but nationally the case was almost entirely unknown. To Frank's savvy team of operatives this universal ignorance constituted a vast audience of potential supporters, who could become activists if fed only the uncritical narrative of Leo Frank's victimhood and innocence.

And so the need to generate a global outcry in Frank's favor is what motivated one of the most

massive and well-oiled public-relations campaigns in American history. So extraordinary in its scope and influence was the Leo Frank crusade that it would ultimately dictate the world's view of the Mary Phagan murder case for a century.

It was a campaign that cleverly and pointedly portrayed the convicted murderer as an innocent victim of a violent state-sponsored religious bigotry. And through that distorted prism a growing number of influential Jews from outside Georgia came to believe that Leo Frank's murder conviction was an egregious anti-Semitic injustice, which if allowed to stand would put all American Jews in mortal danger. The Jewish elite reacted to this manufactured threat by applying all their collective money, muscle, and guile to exonerate and free their imperiled fellow Jew.

The layers of evidence that convinced a jury of white men of Frank's guilt in the murder of Mary Phagan, overwhelming as they were, simply never made it out of Georgia. The vast majority of Americans would never hear of the blood, the hair, the drag marks, the suspicious behavior of the convict, or his sexual transgressions. They would learn of Leo Frank for the first time as a sympathetic figure, a victim of organized "anti-Semitism" on a par with that of other international cases where religious persecution was charged, as with Russian Mendel Beilis or Frenchman Alfred Dreyfus.[487] Nor would the public learn of the ugly racist rhetoric on which Frank himself based his own ill-fated defense. With the case now deemed an "international incident," Frank's unprecedented assemblage of the nation's powerful Jewish elites brought with it sizable reputations and just-as-sizable war chests.[488]

What followed was an all-out Jewish war

against the guilty verdict. Of course, Georgia's Jim Crow "justice system" had always been grossly unjust toward its Black victims, but this northern-based Jewish offensive to free Leo Frank was not intended to destroy Jim Crow discrimination or punish the whites who maintained it. Incredibly, Leo Frank's new focus would actually target the many Blacks whose testimony was entered into the record of the case. What seemed to offend the Leo Frank team was not Georgia's racism *per se*—America's Jews were fine with that—it was the State's *acceptance of testimony from its Black citizens* that was the egregious anti-Jewish wrong. Frank's aim, therefore, was to affirm and reinforce the hard-and-fast Jim Crow guarantee that the testimony of the Black man was invalid and that the word of a white man always held sway.[489]

Leo Frank's racist trial strategy—which first attempted to implicate night watchman Newt Lee and then shifted to targeting factory sweeper James Conley—proved to be a spectacular failure. But the adverse outcome was obviously not enough of a disaster to make the Frank team abandon that approach. Frank's refashioned post-conviction team of advocates simply refined and amplified the racist tactic for a national and international audience. After all, in the court of public opinion outside Georgia, there would be no Hugh Dorseys to cross-examine or impeach the defense witnesses. The State of Georgia had neither the reach nor the inclination to fight the massive effort on such a broad scale, and Frank's people took great tactical advantage of those obvious limitations.

Losing attorneys Luther Rosser and Reuben Arnold were kept on board but demoted to spokesperson roles, and Frank entrusted his legal and public appeals to a more cosmopolitan and

urbane non-Southern Jewish elite. Their focus was to surgically save a single Jew, while leaving the Jim Crow system intact. Southern and Georgian racial "sensitivities" would be spared and accommodated.[490] The direct target of Frank's new campaign would be the Black man in the person of James "Jim" Conley.

The Money Man Behind Leo Frank: Albert Lasker

Frank's ever-growing legal team worked mightily and successfully to delay the execution of Leo Frank, going from courtroom to courtroom arguing technicalities, and each time eking out a few more weeks of existence for their client. In the meantime, other sectors of the Jewish community geared up to play a crucial role.

With the help of such Jewish luminaries as Sears magnate Julius Rosenwald and Wall Street financier Jacob Schiff, many prominent Jews signed on to the Leo Frank movement. They were motivated and supervised by Frank's new patron saint, the Chicago-based "founder of modern advertising," Albert D. Lasker.[491] He was the head of Lord & Thomas, the largest and most profitable advertising agency in the world, but he would carefully avoid advertising his central role in the growing campaign.[492] The effort to repackage the Leo Frank story—from that of convicted child rapist and murderer to that of innocent Jewish sufferer of anti-Semitic mob hysteria—would take Lasker's particular promotional genius. It was he, after all, who made household names of products like Lucky Strike cigarettes, Chanel perfume, Pepsodent toothpaste, Kotex sanitary napkins, Quaker Oats,

Kleenex tissue, Palmolive soap, Sunkist oranges, Goodyear Tires, and Budweiser Beer.[493]

Lasker came from a prominent Texas family of Jewish slaveholders. His father, Morris, a retired real estate mogul and millionaire owner of two banks, was a Confederate veteran who styled himself as an "Indian fighter" who "engaged in many expeditions against the Indians."[494] The elder Lasker was one of the first Jews outside Georgia to take an interest in the case. He viewed Leo Frank as the victim of an anti-Semitic judicial outrage and appealed to his powerful son to enter the case on behalf of Jewish justice. Albert Lasker dutifully complied, contacted his friend Arthur Brisbane, the editor of the popular New York *Evening Journal*,[495] and they both traveled to Atlanta and met with the prosecutors, the defense counsel, and Leo Frank himself. Though Lasker became Frank's greatest financial backer and advocate, his recollection of their first meeting is disturbing:

> *[N]either Brisbane nor I liked Frank*. From our interviews, we found him a supercilious egotist who was enjoying this notoriety. We took a great prejudice against him and we could see…how it would add to the psychology of those against him who didn't have an open mind.[496]

> Both [Brisbane] and I took a tremendous prejudice against the prisoner [Leo Frank]. Like so many, all this publicity had gone to his head—he became a megalomaniac….So we disliked our principle very much, but we determined in our minds that he was innocent and that this was a big frame-up…[497]

Lasker also used a strange configuration of

words to describe the predicament Frank was in. He said that Frank was "legally not guilty" or "isn't legally guilty." Such phrasing is a strenuous distance from the straightforward declaration "He is innocent."

Lasker's negative initial impression of Frank persisted, but his philosophical outlook on the meaning of the case for the Jewish people superseded his concerns. No doubt that Lasker believed he could conceal those highly negative personal traits in his repackaging of the convict. And, certainly, he saw this monumental responsibility as a professional challenge.

Lasker also had the skills to exploit the racial thrust of his Leo Frank sales campaign. He believed fully in white Jewish supremacy and seemed to harbor a belief that Gentiles were not worthy to judge Jews for any crime:

> The Jews are a superior people, I have a hard time hiding that; I feel we should be patient with non-Jews….I deeply believe that no Christian civilization can last that removed from it the Jews. That it is the Jew that brings them the pollen.[498]

In fact, Lasker was a eugenicist—a believer in the need to genetically engineer human beings to form a superior society—and he was a believer long before Adolf Hitler purportedly turned the concept against the Jews. He and his third wife Mary ultimately became one of the eugenics movement's greatest supporters.[499]

So racism, an important element in Frank's new crusade, was indeed Albert Lasker's bailiwick and comfort zone. He emerged from a Southern elitist background very much like that of Frank himself.

One of his biographers claims he "was very fond of Negroes" but betrays his and Lasker's shared racial delusions:

> The Laskers had four servants, all of whom were Negroes except [his mother's] maid….Albert got along with Negroes on the basis of trust and understanding. He never had the slightest taint of racial prejudice, which was unusual in somebody Texas-bred.[500]

Lasker dove headlong into the case, spending upwards of $120,000 of his own money—$2.9 million in 2016 dollars—to re-brand Leo Frank and to finance his legal defense, and he dedicated nine months away from his ad agency to organize the massive effort.[501] He created a sustained public-relations bombardment on behalf of his fellow Jew that remains unrivaled in the annals of American criminal history.[502] Lasker called it the "Truth on the March" campaign and dictated that all media interviews, articles, and statements emanating from the Frank camp should carry that phrase. And skillfully evoking the final ordeal of the *Christian* Savior, Frank's sloganeers would claim that he was the innocent victim of "passion and prejudice," and in their written press releases they would consciously place those words in the mouth of the convict.[503]

Lasker worked tirelessly marshaling resources in the effort to build outside pressure on the State of Georgia to grant Leo Frank a new trial.[504] Soon an impressive group of leading Jews joined the growing coalition to free the convicted murderer now sitting on Georgia's death row.

Louis Marshall: The Legal Power Behind Leo Frank

The American Jewish Committee (AJC) formed as an organization in 1906 to represent the interests of the wealthy assimilated class of German-American Jews. And though Leo Frank shared their status and heritage, the group at first shied away from him, not wanting "to be perceived as championing the cause of a Jew convicted of a crime."[505] But upon reflection (and much lobbying) the AJC board members overcame their apprehensions and donated money, time, and talent to Frank's cause and its growing symbolic significance to American Jews.[506] The AJC was founded and led by attorney Louis Marshall, of the Wall Street firm Guggenheimer, Untermeyer & Marshall, who was considered by many including himself to be the most prominent Jew in America.[507] A so-called court Jew, privileged and well regarded, Marshall earned back-stairway access to the inner sanctums of the powerful, including President Woodrow Wilson and the justices of the Supreme Court. And he considered himself on the national level to be "the spokesman for our citizens of the Jewish faith."[508] Incentivized by the prodding and deep pockets of Albert Lasker, Marshall as lead attorney organized and engineered the legal strategy of the Frank case as it worked its way through the appeals process and up to the United States Supreme Court.

Louis Marshall

Marshall's involvement was particularly noteworthy because he would later join the

NAACP's board of directors, where he would have a hand in designing the legal strategy of the budding civil rights movement.[509] Despite this lofty *vita*, Marshall was no racial liberal. When, in 1922, a Jewish group publicly stated their intention to organize to fight against the racial terrorist Ku Klux Klan, Marshall immediately tried to stop them. He sent a letter to the group's leader: "I think that you are making a grave mistake..."[510]

Marshall's biographer Morton Rosenstock confirmed that Marshall and the American Jewish Committee

> attempted to restrain their fellow-Jews from taking precipitate anti-Klan action. Influential Jews, leaders of organizations, editors of newspapers and magazines—all were urged to refrain from making a Jewish issue out of the Klan. Marshall thought it unwise for Jewish fraternal groups, such as the B'nai B'rith that were themselves secret orders, to condemn another secret order...[511]

Turns out, like Lasker Marshall had a spiritual affinity for racist movements and doctrines. Marshall, the self-described leader of American Jews,[512] was also a committed eugenicist. In 1912, one year before the murder of Mary Phagan, Marshall became the "main legal advisor" of the American Breeders Association in order to render a legal opinion on the "sterilization of criminals and degenerates." Marshall was not in the least bit horrified at the notion. Instead, he offered the "Breeders" this sage advice and legal counsel:

> I understand that the operation of vasectomy is painless and has no effect

> upon the person upon whom it is imposed other than to render it impossible for him to have progeny. If it could be said that such a punishment would only be inflicted in the case of confirmed criminals, there would be strong reasons, founded on considerations of the public welfare, which would justify its imposition…[513]

Like Adolf Hitler, Louis Marshall believed that compulsory sterilization should be public policy. In the same year that he took up the Frank case, 1914, Marshall was signatory to a frightening eugenics study that examined the "BEST PRACTICAL MEANS OF CUTTING OFF THE DEFECTIVE GERM-PLASM IN THE AMERICAN POPULATION." It was his legal determination that

> [T]he movement is one which is based on sound considerations. The difficulty is, however, in adopting proper safeguards to adequately protect those who are not hopelessly confirmed criminals, degenerates, or defectives.

He undertook to "[f]ram[e] a model law *permitting the sterilization* of persons known to have defective germ-plasms, establishing criterion therefor, and providing for effective execution."[514]

It was *this* Louis Marshall who prepared the briefs to appeal Frank's guilty verdict, and from this point on Frank's defense was a Northern Jewish operation. And with disconcerting ease Lasker and Marshall adopted anew the virulent anti-Black racism that Frank's Southern defense attorneys had injected into his Georgia trial. Marshall calculatedly spoke of James Conley not as a mere "Negro

sweeper," but as a "degenerate negro, of criminal antecedents."[515] Ignoring the horrific legacy of slavery, Jim Crow, and lynchings[516] of Blacks in America, Marshall proclaimed that "never was there a greater crime against justice perpetrated" than that against Leo Frank.[517] Eric Goldstein wrote of Marshall's approach:

> While on the case, Marshall supported the policy crafted by Frank's southern lawyers of trying to use the overwhelming power of the black-white divide in the South to Frank's advantage. The legal team took every opportunity to emphasize Frank's whiteness while trying to shift blame for the crime to Jim Conley, a black janitor who had also been implicated in the murder. While the lawyers believed Conley to be the true assailant, they also felt that, as a black man, he would fit the jury's preconception of a rapist and murderer, thus helping to acquit Frank.[518]

No longer could "Southern influence" be blamed for the bigotry emanating from the pro-Frank forces. Their obvious intent was to create, in the mind of white Americans, such a gulf between Leo Frank's refined white culture and heritage and the dark, primitive, simian roots of the crime for which he was convicted that the white public would be duty-bound to conclude that *only* a Black man could have murdered Mary Phagan. Jeffrey Melnick put it this way:

> …Frank's people tried to establish Frank's "whiteness" (and I mean that doubly here to signify his racial standing

> and his innocence) by demonstrating his distance from even the most trivial constituent of American culture that might be traceable to African Americans.[519]

Dr. Stuart Rockoff, director of the Goldring/ Woldenberg Institute of Southern Jewish Life and the Museum of the Southern Jewish Experience, echoes that theme:

> For these assimilated German Jews, the denial of whiteness that was at the heart of the Frank case profoundly threatened them. They had largely accepted the ideology of white supremacy and conceived of themselves as white. All of a sudden, they realized that this status was insecure and contingent. Thus, their defense of Frank was largely an asserting of his and, by extension, their own whiteness.[520]

With white supremacy at the core of its appeal, the Frank campaign picked up unprecedented steam. Most significantly, Team Marshall & Lasker obtained the support of the owner of the largest and most widely read newspaper in the world, the *New York Times*.

Adolph Ochs: The Worldwide Voice of Leo Frank

The *Lasker–Marshall Plan* for Leo Frank's redemption called for the robust participation of the world's press. Louis Marshall contacted Adolph

Ochs (pronounced ox), the Jewish owner of the *New York Times,* who, after some initial squeamishness, agreed not simply to cover the case, but, as Leonard Dinnerstein put it, "to employ his newspaper *as a weapon in the fight to exonerate Frank*."[521] Albert Lasker remembered it this way:

> [Ochs] said "So far as calling the nation's attention to it, you leave that to me. I am sending my best man…down there today" and the *New York Times* ran the only murder crusade it ever ran, on that. They ran as much as, beginning the week, as five pages, a day, and page after page every day for months and months and months….[522]

One author characterizes Ochs's involvement not as coverage, but as an "obsession." Lasker verified that "Ochs went at it in the spirit of a crusader…and then the whole nation took it up." In December 1914 alone, Ochs printed 33 articles and five editorials about the case.[523]

Adolph Ochs

From his Manhattan highrise 800 miles from Georgia, Ochs carefully adhered to Marshall's

program and focused his paper on the assassination of the character of "the negro" James Conley. This approach was well suited to Ochs's Southern sensibilities, for despite his new northern address, he remained in his heart a true believer in white supremacy. In 1878, Ochs began his newspaper publishing career at the *Chattanooga Times* in his home state of Tennessee. When he took over America's "paper of record" in 1896, he brought with him the racial culture and traditions of a Jim Crow city. Scholar Steven Bloom wrote that Ochs "possessed many Southern prejudices against the Negro which were often evident in *Times* editorials." The position of the *Times* on racial issues, Bloom continued, "was either silent or hostile." Decades after the Emancipation Proclamation Ochs offered his *New York Times* readership a Black employment plan that included "driv[ing] the men to work [in the fields] with a few blows," after which "the negro goes resignedly and sadly, like a cow, while an occasional whack urges him on."[524] Said the 1901 article:

> Northerners cannot realize how low in intelligence, how irresponsible the pure negro is. He is an animal...even worse than most animals…[525]

In the very same issue the *Times* decried the attitude of Blacks who did not appreciate the "opportunities" to pick cotton:

> Unfortunately, the negro is degenerating….Were he differently constituted…he would be infinitely more dangerous than he now has the energy to be.

Another article disparaged "the college bred negro," scoffing at W.E.B. Du Bois's Talented Tenth theory and further reinforcing the idea that all Blacks would be better off working with their hands and not their minds. The front page of that issue advocated so strongly for the removal of voting rights for the Blacks of Alabama that the Ku Klux Klan could not have offered a more strident argument. The *Times* worried that the Black voters were a "menace to the well-being and prosperity of the State." In another article the *Times* editors recommended immediate investment in "Old Mammy training schools," which would "transform any intelligent colored woman into an Old Mammy."[526] The Ochses insisted that "We love the negroes….We must look after them but keep them in their place; they are fine as long as they stay in the kitchen."[527]

The *Times*'s printed racial wisdom was casually framed by prominent advertising by Jewish merchants and retailers with the names Simonson, Haas, Koch, Altman, Siegel, Arnheim, Stern, Fischer, Weber, Wissner, Sidenberg, Abraham, Straus, Krause, Millekin, and Miller.

It took the *Times* until 1930—65 years after the end of slavery—to even capitalize the word *Negro*. The grand wizard and founder of the Ku Klux Klan, William J. Simmons, was capitalizing *Negro* in his published writings a full decade earlier.[528] Racism was nuts-and-bolts standard practice for Adolph Ochs and it would be on full display in the *Times'*s coverage of the Leo Frank affair.[529]

The Campaign Against James Conley

Up to the time of the guilty verdict, the Leo Frank case had warranted only a few minor mentions in the *Times,* and then only as a routine crime story. The paper matter-of-factly noted that Conley, "a negro," had testified to helping Frank "dispose of the girl's body after she had been killed by Frank." Frank's Jewishness was not mentioned; nor was "anti-Semitism."[530] But once enlisted by Marshall, Ochs pursued the story with a vengeance, and, in so doing, eviscerated all traces of objectivity. As Steve Oney writes,

> [the *Times* articles] read as if they'd originated from within the defense camp. Which, in many instances, they had. On several occasions during this period, Ochs essentially turned over his news columns to Frank's lawyers, printing lengthy interviews unmediated by any skepticism and unencumbered by a word from the other side.[531]

The *Times* most often referred to Conley as simply "the negro,"[532] while referring to the convicted murderer as "Mr. Frank"—never, ever as "the Jew." A sample of the invective the *Times* specifically applied to Conley betrayed a deep-seated hatred of his race indistinguishable from that of the worst Southern hatemongers. The *New York Times* called James Conley:[533]

> a "wretched degenerate negro"
>
> a "semi-intoxicated, lustful, improvident, and impecunious negro"

a “drunken degenerate”

a “treacherous negro”

a “drunken, obscene negro jailbird”

a “lying, licentious negro jailbird”

an “unmoral wretch”

Frank’s attorneys had “free rein to recapitulate the entire affair from Frank’s point of view.” Luther Z. Rosser attacked “the negro Conley,” trumpeting what he called his “criminal record,”[534] while juxtaposing Frank’s superior standing and prestige. He added, “As for Conley, it would have been impossible to pick out a negro lower in the social scale.”[535] Not only did the *Times*’s coverage insist on Frank’s innocence, but it openly demanded that Georgia authorities try “the negro Conley” as the murderer. There could be no mistaking that Ochs’s *New York Times* was a full-fledged member of the defense team.

And though Marshall had warned him against recklessly attacking the Georgia judicial system and broadly charging its citizens with “anti-Semitism,” the now obsessed Ochs retold the story as though that were all that mattered. In nearly one hundred articles Ochs made sure that for the vast American public first hearing of the case, Frank’s Jewishness would become *the* central focus.[536]

Further, Ochs’s *Times* became the New York power center for organizing financial support among the northern Jewish elite. Ochs tasked his own executive and socially adept fiduciary Louis Wiley to orchestrate the fundraising campaign on Frank’s behalf. Wiley appealed, wheeled and dealed

on *Times* letterhead, intimately interacting with Frank's top operatives.[537]

"Unsupported" Negroes • The 1853 law was clear: "Negro testimony is inadmissible against a free white person." The 1913 Georgia custom was just as clear and just as valid.[538] Ochs adapted, refined, validated, and reiterated that profoundly racist *"unsupported word"* doctrine, trumpeting it to a grand daily national circulation of a quarter of a million. His sophisticated version even took it a step further. The acceptance of "negro testimony" by the white Georgia justice system in itself equaled "anti-Semitism." The substance of said testimony was not, should not, and could not matter in the least—the "negro" mouth from which it emanated was *all* that mattered.

The *Times* titled one section of a sprawling "special" article "CONVICTED ON NEGRO TESTIMONY," insisting that it was an inferior class of testimony notable for its *inherent* unreliability.[539] The article made no mention of a separate and distinct category of "Jewish testimony." Often, the *Times* simply reprinted the unedited, unchallenged racism of its readers. Frank, said one, was "convicted on…the perjured testimony of a… superstitious, disturbed, ignorant negro mind."[540] Another wrote that Georgians were "hypnotized with the tale of that debauched and drunken negro."[541]

A *Times* correspondent actually interviewed Conley in his Atlanta jail cell, and his report was made to order for the Frank team. Conley was a "heartless, brutal, greedy, literally a black monster, drunken, low-lived, [and] utterly worthless…" Further, he was "a black human animal" who "growls like a hungry dog," "the incarnation of brutality." Despite these vicious insults, the reporter

seemed compelled to relay a remarkable fact about his "black monster":

> In the course of much more than an hour's talk I found it impossible to get from him the slightest contradiction of the story he had told upon the witness stand….He did not hesitate at all at any time; he did not contradict himself.[542]

In one legal appeal Georgia's Judge Ben H. Hill denied Frank a new trial, but the *Times* pointed out that the judge had once defended a Southern white woman *from* "negro testimony" in a New York trial with the following closing argument:

> Out of a long familiarity with the negro type and knowledge of the race, I tell you on my honor as a Southern gentleman that a negro cannot be believed under any circumstances.[543]

The *New York Times* was not pointing this out in outraged objection to Judge Hill's obvious racism, but upbraiding him *for not applying the same racist standard in the Frank case.* Judge Hill, of course, had no epiphany about the believability of Blacks. His judicial actions affirming the verdict only proved that the evidence against Frank was so overwhelming as to render Conley's "negro testimony" unessential.

One part of the *Times*'s strategy was to solicit the opinions of pro-Frank "experts" to expound on the fine points of white American jurisprudence. Always, their racism was unbridled: Under the heading "FIVE AGAINST THE NEGRO," Georgian Berry Benson was incredulous that the jury would deliberately exalt above five whites

> the word of this base, self-admitted negro perjurer[.]...I believe that the twelve jurymen are Southern enough, and white enough, to believe, in this, exactly as I believe.[544]

Under the heading "NEGROES AS FORGERS," Frank's attorney and *Times* "expert" W.M. Howard wrote that having practiced law in a court that dealt "almost entirely with negro crimes," he was able to characterize the Phagan murder as being "a very low order of cunning," as seen practiced among the "beasts" and committed by someone of "a low order of intelligence."[545]

Another *New York Times* article titled "WHERE THE WHITE MAN RULES" approvingly described Atlanta as a place "where the white man fosters white supremacy with passionate resolve" and where tradition demands that "fine distinctions" be made "between the negro and the white man."[546]

Despite this barrage of calculated contempt directed at the very humanity of James Conley and his accursed race, he actually became one of the most extensively quoted Black men in the history of the *New York Times*! Words attributed to the demonized factory sweeper[547] appeared in greater volume and detail and occasioned deeper editorial analysis than the combined *New York Times*-published words of prominent Black leaders of that era, including Booker T. Washington, Frederick Douglass, W.E.B. Du Bois, and Marcus M. Garvey.

When the *Times* ran low on its own racial poison, it reprinted that which it could find in other newspapers, such as this ludicrous opinion from the *Jacksonville Times-Union:* "The hanging of Leo Frank will be a greater disgrace to Georgia than all the lynchings that have occurred in that State."[548] The

Times reprinted an *Atlanta Journal* editorial that called Conley "an irresponsible, drunken negro" and that claimed his "negro testimony" would not have been accepted were it not for the seriousness of the crime and the victim's whiteness. As "a negro," he "would not have been believed under other conditions." Frank's supporters attached "great significance" to the *Journal*'s opinion, and, according to the *Times*, Frank "was a happy man when he read the editorial."[549]

The *Times* reprinted a letter from "a woman in Atlanta" who called Conley "[t]he little short, thick, yellowish negro" who had a "wooly head," contrasting the "yellowish negro" with the "black negro" described in the murder notes found beside the body. In reference to the lost silver mesh purse that Mary Phagan had with her when she left her home, the writer believed, "None but a negro criminal would have been cruel enough to take such spoils. That was no white man's act." She decried the idea that the courts have condemned "God's own chosen ones…on a criminal negro's word."[550]

The *Times* showcased comments from New York's *Evening Mail* that neatly expressed a very Nazi-like public appeal to white racial unity, which Frank was now making for his own exoneration:

> America, the melting pot of the nations, in which the blood of all *Aryan* Europe has been fused during the past two centuries, is witnessing a recrudescence of national and race prejudices in most menacing forms. These racial lines of cleavage threaten to split our people, which had almost been fused into a homogenous unit inspired by the American ideal, into a mixed

> conglomerate of nationalities and races upon which no great civilization can be built up.[551]

Many other Gentile-owned newspapers also opined on the case, though none as extensively as the Jewish-owned *New York Times*. All must be viewed with the knowledge of Albert Lasker's extraordinary influence over important advertisers, whose spending no doubt prejudiced the coverage of the case.

As Frank's Lasker-Marshall-Ochs media blitz spread throughout the American press, Georgians seethed with predictable anger. Steve Oney wrote:

> The *Times'* behavior in the Frank case was stunning. They lost all objectivity. They published dozens of stories, most of them quoting sources only from the defense camp, and they ran six or seven major editorials a month attacking the prosecution.[552]

The Augusta (GA) Chronicle questioned the behemoth of the North:

> Why ha[s] THE TIMES…attempted to make so much out of the Frank case, when so many other men, white and black and of all creeds, have gone to the gallows in the South for crimes far less revolting than this and whose guilt was no better established?[553]

The *Chronicle* would never get a satisfactory answer to that question, but the paper accurately reflected the growing disgust that white

Southerners had for Leo Frank's new Yankee-driven campaign. There are yet other scholars of the Frank case who appear oblivious to Ochs's role in fanning the racial tensions that came to define the Frank case. Brandeis University's Robin Kahn studied the *New York Times* coverage and returns this astounding verdict:

> [The] *New York Times* should be commended for its coverage in the case….Though the *Times* strove for objectivity, one may feel, based on [my] study, that as regards Frank, the editors' biases held sway. It appears, however, that this is not the case. Rather, the *Times'* and its readership's commitment to a fair, legally proper trial was the crux of the issue, and this formed the basis of their support for Leo Frank.[554]

The Jewish Press & Race Hate

The *New York Times* with its huge political footprint merely led this very Jewish campaign, but by no means was it the only Jewish newspaper to propagandize the Frank affair. The *Pittsburgh Jewish Criterion*, Boston's *Jewish Advocate,* the *St. Louis Jewish Voice*, New York's *Jewish Daily Forward*, the Jewish-owned *New York World* and *Evening World* (New York), and most prominently the *American Israelite*—run by Adolph Ochs's own brother-in-law, Leo Wise—joined the Frank campaign, all promoting Frank's innocence using anti-Black invective.[555]

The January 21, 1915, issue of the *American Israelite* passed along this editorial from a recent issue of *American Medicine*:

> The sexual proclivities of even the normal negro are thus well known, and yet the jury and the courts have placed implicit confidence in a negro who is said to be a pervert….*The crime is one which negroes are prone to commit*, and if a white man is guilty he generally if not always shows signs of mental disturbance…[556]

Through the agency of this impressive phalanx of Jewish media forces, the Leo Frank case was successfully recast from a criminal prosecution to an international Jewish crusade. And *as Jews* they increased the pressure on the state of Georgia, James Conley, and the "criminal race" to which he belonged.

Abraham Cahan's Yiddish-language *Forward* was the bible to arriving Eastern European immigrants, helping the newcomers to get acclimated to the culture and system of mainstream America. It devoted page after page to the Leo Frank case. Cahan cultivated an unusual personal closeness to the convict that obliterated any trace of objectivity.[557]

Cahan was perfectly attuned to America's racist ethos and accomplished an amazing feat: he vehemently protested Frank's lynching while simultaneously reinforcing the most savage of anti-Black canards for his immigrant readers:

> We wouldn't be awed if at the site of Frank's murder yesterday a picnic with music would be organized the following day with the crowd drinking, eating, singing and dancing and politicians giving speeches. But that is what took place only a short time ago in that same "South" where two Negroes were hanged. That was how the wild African tribes used to behave when they'd capture a foreigner and prepare him for roasting and eating. That's how all savages behave and the Southern savages are no different.[558]

That Leo Frank and his Jewish supporters wailed so publicly about the supposed violation of their civil rights while so energetically advocating that Black people be deprived of theirs is the most ignored hypocrisy of the entire case.

Blacks React • Blacks watched incredulously as the leaders of organized American Jewry mercilessly attacked both their civil rights and their

very humanity—in the name of "justice" for a single Jew.[559] *New York Age* editor and activist James Weldon Johnson:

> Every effort is being made by the defense to saddle the murder on the colored man, Conley. Whether Frank murdered Mary Phagan or not we do not know; but the mere fact that Conley did not long ago make his exit from this terrestrial sphere, via a chariot of fire, is convincing proof that he, at least, is not the man who committed the deed.[560]

Chicago's *Defender* editorially noted the bitter irony that Jews had claimed to be victims of white oppression but nonetheless "have found time to perpetuate the same offenses" against Blacks.[561]

The *Afro-American Ledger* of Baltimore responded to a white paper's suggestion that the South should "blush" at the lynching of Leo Frank, concluding with a wry flourish:

> [We do] blush with shame over the barbarity of the South, but it is no special blush. Our faces have been suffused a half hundred times before this year. It does make a difference, doesn't it, whose ox is gored?

Next to that commentary, it reprinted an ever-so-brief two-paragraph article from a white Baltimore newspaper "reporting" on the lynching of three Black men for allegedly "poisoning mules." The *Ledger* noted that the article appeared in the same issue where several columns were dedicated to covering the lynching of "Leo Frank, the Jew."[562]

But it takes Mrs. K. J. Bills' letter to the editor of the *Chicago Defender* to sum up the dominant Black perspective:

> This American nation is truly a nation of hypocrites….Have they stopped to count how many innocent men, women and children have been burned, shot and lynched without being given a chance to deny their guilt?…Even since Frank has been playing hide and seek in the courts many of my unfortunate race have been lynched without even a protest from our own leading men and women. I have kept up with this case simply because one of my race is implicated. Now, because of so many protests from all sources to save Frank, at last, just as I expected, they are going to shift the whole murder and everything connected with it on the poor Negro.[563]

Georgia Responds: The Tom Watson Effect

[W] e increased the disease.

—

Albert
Lasker

Thomas (Tom) E. Watson was the strongest of those Georgia voices that took deadly aim at the media blitzkrieg from the north. A powerful personality in Georgia politics, he wrote and published a weekly newspaper he called the *Jeffersonian* and a monthly titled *Watson's Magazine*. Many Jews have claimed that the influential Georgia populist and attorney stoked the flames of anti-Semitism throughout the trial, and many, like Frank's main attorney Louis Marshall, laid blame for the lynching of Frank at Watson's doorstep.[564] This is how Watson's role is typically characterized:

> While waiting for the grand jury to act, Thomas E. Watson, Populist candidate for President, author and journalist, and rabid professional Southerner, proceeded in his newspapers to try, convict, and execute Leo Frank, Yankee Jew and employer of Dixie's white womanhood.[565]

Jewish historian Murray Friedman claimed that Frank's lawyers used their racist courtroom

language “rhetorically,” and only in response to Tom Watson’s anti-Semitic rhetoric.[566] And writer Harry Golden claimed that Watson “was directly responsible for fomenting the only European-type pogrom against a Jewish community in the history of the United States.”[567] These and other writers eager to reinforce an invented “anti-Semitism” narrative have simply misrepresented Watson’s role in the Frank case.

Thomas Watson

The fact is, the trial lasted from July 28 to

August 26, 1913, when Frank was sentenced to die; but Watson published his first words on the case on March 19, 1914—*seven months after Leo Frank had been convicted.*[568] And just in the thirty days before Watson's *first* commentary, the *New York Times* had printed 14 anti-Black, racism-filled articles as part of Frank's "Truth on the March" campaign—not one article even remotely resembling objective journalism.

Once involved, Watson's approach was at first almost entirely defensive. He simply reprinted the *New York Times*'s most offensive claims about the trial and then corrected the record in strident defense of Georgia's "honor."[569] The aggressive post-trial campaign mounted by Frank's new public-relations team and their astonishing disregard for the facts of the case fed Watson's indignation. Lasker himself assessed his efforts on Frank's behalf:

> [We] indicted the whole people of Georgia; well, then, as was natural, in any group, you solidify….We put the whole state of Georgia on trial and we did what is so often done, in the cure that we gave for the disease, we increased the disease.[570]

Watson reacted strongly to that attack on "the whole people of Georgia," and his first comments in the *Jeffersonian* represented the Georgian people's growing disdain for Frank's new extralegal "cure":

> According to law and to uniform practice, Frank has had a fair trial and has been justly condemned….*WHERE SHALL OUR MURDER CASES BE TRIED?* Are the newspapers to do it? *Are the pulpits to do it?* If so, let us try all of them

> *the same way*. Let us not have one law for the rich and another for the poor.[571]

Soon this rather mild indignation morphed into a vigorous counterinsurgency that struck a militant chord with white Georgians. Watson was not a mere ideologue: he was a lawyer of many years (he was 58 years old by this time), who was well acquainted with the fine points of both Georgia state law and the Frank case. His painstaking analysis of the trial evidence and strict attention to the official record—punctuated with flourishes of common-white-man outrage—made him the unbossed champion of Georgia's virtue.[572]

By early 1914, the three Atlanta dailies had been bullied into a position favorable to Frank's cause. Once aggressive in their reportage and trial coverage, the city's newspapers now kept a fixed eye on their substantial Jewish advertisement revenues. And no one could help but notice that not one of the dailies tendered a response to the Northern assault on their state and its blatant misrepresentation of the trial record. The Atlanta media's curious new orientation seemed to many to coincide with a rumored flood of funds pouring in to the state to be used on Frank's behalf. But there was one glaring exception to the Frank team's efforts to muzzle the local press: they were unable to control the unsparing rhetoric of Thomas E. Watson. They were completely confounded by Watson's dissection of every aspect of Mary Phagan's murder, and Georgians reveled in his weekly jousting with the big Northern media combines. No one could deny that Watson expressively articulated the common white Georgian's resentment:

> Never before did any criminal who had

> exhausted in his own behalf, every known right, privilege and precedent of the law, resort to such a systematic and unprecedented crusade against civilized tribunals, orderly methods, and legally established results….Never before in the history of this country has any convicted criminal been given the freedom of the daily papers that Frank has enjoyed.

Watson directly countered Frank's attempts to create "anti-Semitism" out of whole cloth, by citing the "rich Jews" as the major offenders: the owners of the *New York World*,[573] the Pulitzers; and the *New York Times*'s Adolph Ochs.[574] Watson, a decorated racist himself, could readily see through Leo Frank's negro-testimony-as-anti-Semitism ploy:

> [T]he great point emphasized by [the Jewish papers] is, that a witness against Frank *was a negro!* It seems that negroes are good enough to kill our ballots, make our laws, hold office, sleep in our beds, eat at our tables, marry our daughters, and mongrelize the Anglo-Saxon race, *but are not good enough to bear testimony against a rich Jew!*[575]

Oney comments that for Watson, "The implicit racism of many of the defense's allies was, of course, a fat target."[576] Astonished at the "untold millions"[577] expended in the state on Frank's behalf, Watson railed at the seemingly endless appeals process that taxed Georgia's budget and its patience. There is no doubt that Tom Watson's rhetoric ultimately targeted Jews who championed the cause of "a Jew pervert," but Watson offered Georgians far more legitimate legal analysis than

the transparent propaganda in which the *Times'*s Adolph Ochs trafficked. Watson quoted at length from the *Brief of Evidence*—the official trial summary that Frank's lawyers approved of without dispute, but that Frank's team was loath to touch.

Georgians appreciated Watson's take on the case,[578] which was the kind of analysis that Frank's team assiduously avoided. As Lasker and the *New York Times* had become the prosecutors, Watson took up the defense. He filled in gaps in the laymen's legal understanding of points of order, trial rules, due process, and courtroom strategy. For example, of the bloody fingerprints found on the factory's basement door,[579] Watson said:

> Let me here remind the reader that Jim Conley, a State's witness, could have been required by Leo Frank's lawyers *to make the imprint of his fingers while he was on the stand*, and if these finger marks had resembled those made on the back door, *Frank would have gone free, and the negro would have swung.*[580]

Watson pinpointed the blunders of and the mishandling of the case by Frank's main attorneys, Luther Rosser and Reuben Arnold, and challenged them both to debate him in print, offering them as much space as they would require. But their shrinking from the offer—like Frank's refusal to confront Jim Conley—preferring to be heard only through a Northern enemy's megaphone, only increased Watson's legend and momentum.

He drew biblical parallels to the case that subtly brought Frank's Jewishness into question. Watson reminded the Jews that it was Frank himself who brought out his Jewishness at the trial and no one

else, and "if the Jews are so rash as to identify the whole race WITH ITS WORST MEMBER, what can they expect? Other races don't make that mistake."[581] He asked:

> Why should Jews, and the Gentile champions of Leo Frank, virtually claim that the whole Hebrew race was struck at, when one convicted pervert and murderer was punished, *as Mosaic law would have him punished*? If all Jews are incapable of crime, why the Decalogue and Leviticus?[582]

After the lynching of Leo Frank, Watson was unapologetic:

> Leo Frank was put to death, *in obedience to legal sentence*, after his just conviction had been sustained by the highest courts. *We couldn't allow rich Jews to reverse our Supreme Courts.* We couldn't allow them to substitute Talmudic teaching, for the Penal Code of Georgia.[583]

The nation's premier advertising mind, Albert Lasker, and newspaper magnate Adolph Ochs had experience only in one-way messaging, and they were utterly unprepared for an actual two-way debate. And Leo Frank's team of propagandists and promoters ignored Watson at their own peril. Their absence from the exchange allowed Watson's commentary to hold sway in Georgia.

Certainly, the Jewish assault on Georgia instigated and whipped up Watson's anti-Frank rhetoric,[584] but Watson had been openly, profoundly, and violently racist for years and years. And during those years, according to Dr.

Lindemann,

> Jewish merchants bought advertising space in Watson's paper, and Watson often praised the city's Jews and notably avoided calling attention to anti-Populist sentiment among them.[585]

As an attorney, he once defended a Jewish defendant against murder charges, stating in his closing argument, "No Jew can do murder."[586] Alongside his commentary on the Frank case, the *Jeffersonian* ran articles that defended Jews from what Watson saw as their oppressors—Catholics. In an article titled "WON'T THE ROMAN CATHOLICS EVER QUIT PERSECUTING THE JEWS?" he railed at how the Catholics "barbarously persecuted the kindred of Mary, the peaceable Jews." In the very same issue, his front page headline screamed, "HERE COME THE NEGRO PRIESTS, PREACHING IN THE SOUTH!...THE ITALIAN POPE IS AFTER OUR NIGGERS!"—complete with a cartoon showing a virginal white woman in a confession booth *alone* with a burly Black priest with his "thick wooly head." "Can you imagine," he asked, "a deadlier danger to morals?"[587] And Watson acknowledged, respected, and defended the Jews' claim to the Holy Land.[588]

At the very moment of Leo Frank's arrest for the murder of Mary Phagan in late April of 1913, Watson's *Jeffersonian* was demanding that white politicians remove Blacks from all government positions, advocating lynching, and referring to Blacks as "niggers" and "coons." And, to top it off, he was an avid and open supporter of the Ku Klux Klan![589] According to the *Journal of Negro History*:

> The Black male fared even worse at the

> hands of Watson, who insisted on the frequent use of brute force to "control" Negroes and on flogging, if for no other reason, than for "their color and their smell."[590]

Yet, with full knowledge of Watson's racial bigotry, Jewish leaders of the B'nai B'rith sought his legal services to aid their embattled president, offering him a $5,000 retainer.[591] Atlanta Jews, and Leo Frank himself, understood and supported Watson's sentiments and sought his special skills as they geared up to lay the blame for Mary Phagan's murder on "a negro."

Indeed, Watson's racism was indistinguishable from that of Adolph Ochs at the *New York Times*, whose editorials spoke of the "coon," "nigger," "darky," and "mammy" in reference to America's Black citizenry. As a populist leader of twenty years earlier, Watson had at least tried cross-racial political organizing. Speaking with white and Black sharecroppers ensnared by the crop-lien system, he had often argued:

> You are kept apart that you may be separately fleeced of your earnings. You are made to hate each other because upon that hatred is rested the keystone of the arch of financial despotism which enslaves you both.[592]

Jews, on the other hand, had *always* avidly and unwaveringly espoused white supremacy for as long as they had resided in Dixie. A large proportion of their members were in the merchant class and among the prime economic beneficiaries of the sharecropping system. They vehemently rejected Watson's brand of populism. And Watson soon

"reformed" his racial views to align more closely with those of the People of the Book. So when they sought their best legal weapon in defense of the accused B'nai B'rith leader, Watson was their man. He refused their offer, and that may help explain why he made no mention of the case until seven months after the trial.[593]

And what role did Tom Watson play in inciting the lynching—or, as Watson called it, the "irregular execution"[594]—of Leo Frank? According to interviews conducted by one scholar,

> [T]he lynch mob that did kill Frank was composed of coldly determined men who had vowed to see that Frank died even before Watson's tirade began….[I]t is ironically improbable that he influenced appreciably the actions of the ones who did put Frank to death.[595]

Anti-Semite or not, it is clear that Tom Watson's outrage was generated by his belief that Leo Frank was a sexual predator.[596] The willingness of the international Jewish community to rally around Frank *as a Jew* and ignore his sexual crimes against a Gentile child is what brought out Watson's ire—just as the willingness of Georgia courts to accept "negro testimony" brought out the racism of Adolph Ochs, the racism of attorneys Rosser and Arnold, and the racism of Leo Frank himself.

After Frank's lynching in 1915, the entire state conservative ticket backed by Watson was elected,[597] and, according to scholar Mark Bauman, some Jewish businessmen in Atlanta actually "participated within the conservative faction."[598] Ironically, Frank's patron saint Albert Lasker acknowledged the wisdom of Watson's point of

view:

> I made a great mistake. Georgia, which had kept it quiet, resented the pressure from outsiders….Yes. I want to make up to Georgia for what I did to them then, because there is where our greatest mistake was when we took and flashed this all over the country.

In retrospect, he said, he would have told Ochs and other pressmen:

> We don't want you to print a word, we want you to tell this to people who have *economic connections in Georgia*, and we want them to talk to the economic leaders of the South. We want them to go down to Washington and talk to them quietly as if nothing was going on….If we had done that I think we would have saved the boy's life, but when we put this tremendous pressure on all of them, the state was indicted and there came a unanimous opinion in Georgia that he was guilty; so I handled it badly….We didn't understand the psychology….The boy was commuted and lynched. I got him lynched instead of hung, that is all that happened.[599]

Lasker ultimately conceded that Watson was, in his opinion, "a very brilliant man."[600]

Last, scholars like Harry Golden and Leonard Dinnerstein have intimated that Watson was motivated by greed after seeing that Leo Frank "turned into the greatest sales bonanza in *The Jeffersonian*'s history."[601] If this is so, then Watson

was the last aboard a long, long train that included many pro-Frank newspapers like the *New York Times* and the *Jewish Daily Forward.* As shown, publisher Abraham Cahan took a special interest in Frank that seemed to have far more to do with his struggling paper's circulation than with any righteous indignation at Frank's plight. Scholar Jason Schulman charged Cahan with exploiting the Frank case for cash profit:

> Cahan, seeing how much attention the Frank affair was receiving in the mainstream press, took advantage of the moment and devised a plan to "Americanize" his *Forward* readers by simply mimicking the American press. Despite Cahan's efforts, if the *Forward* readers did not buy the newspaper, all his efforts would have been in vain; but the Yiddish-speaking immigrants could not be satiated by news of the Frank affair. On 19 August 1915, just two days after Frank's murder, the *Forward* announced its new circulation: 200,267—almost a 50% increase from the pre-Frank affair figure. [Cahan's biographer Theodore] Pollock correctly points out that this "act of regional insanity contributed to the growth of the *Forward*."

In his exploitation of the Frank case, Cahan did with the *Forward* what Tom Watson was charged with doing for his *Jeffersonian* newspaper.[602]

Leo Frank's Bumbling Private Eyes

Nine-tenths of the private detectives, so-called, are the worst lot of blackmailing crooks and scoundrels that ever went unhanged. I am trying to cloak this business with an air of respectability and honesty but it has been the stamping ground for the worst kind of crooks for so long that it is a hard job.[603]

—

William
J.
Burns,
private
detective
hired
by Leo
Frank

Undoubtedly some one interested in the [Leo Frank] defense employed dishonest detectives…[604]

—ADL

As Leo Frank's retooled defense team propagandized the public on an unprecedented international scale, they pursued the legal track within Georgia's appellate court system in their campaign to save the prisoner's life. Several unsuccessful appeals in Georgia state courts served to delay his execution throughout 1913 and into a very eventful 1914.

His New York-based public relations assault on Georgia was antagonistic enough, but Frank also employed other strategies that only added to his many legal woes. Part of his plan involved a radical re-examination of the most damaging trial evidence. So in March of 1914, Frank hired "the greatest sleuth in the world," William J. Burns, to perform that delicate assignment.[605] The Burns agency had first been employed early in the case when Frank was arrested, but it soon withdrew, citing the surrounding legal (and illegal) chaos. But its withdrawal probably had more to do with the rather resolute conclusion drawn by Burns's head detective, C.W. Tobie. When it was suggested by a reporter that he was trying to shield Frank from the police investigation, Tobie responded:

> That is absurd. From what I developed in my investigation I am convinced that Frank is the guilty man. We were working on the theory that he was the murderer…[606]

Clearly, that investigative arrangement did not work out for Leo Frank.

The Pinkerton Agency, which had also been employed by Frank, had fallen out of favor because

its agent Harry Scott, like Burns's agent, had come to believe that Frank was the lone murderer of Mary Phagan.[607] But with the passing of a year since that initial engagement, Burns this time came *himself,* descending upon Atlanta, ready to employ *any means necessary* to exonerate Leo Frank of Mary Phagan's murder.

Publicly Frank and his friends feigned ignorance of Burns's role and actually denied that they had any connection to him at all. Appearing to be running interference, the *Atlanta Constitution* assured its readers that

> Leo Frank knows nothing of the decision of Detective William J. Burns to investigate the Phagan murder. That is, he knows nothing except what he has learned from the newspapers….It is generally conceded that Burns will not be associated with the prisoner's defense. His investigation, it is said, will be conducted independently….As yet he has not accepted employment at the hands of Frank or his friends and it may be that he will not be employed by anyone.[608]

All this was subterfuge. Frank's posture suggests that he wanted to keep a safe distance from the activities he and his legal team knew Burns would be engaged in. But Burns himself let slip to the press that it was Frank's friends who had employed him.[609] Albert Lasker told his biographer that when he contacted fellow Jew Adolph Ochs of the *New York Times*,

> His second suggestion to me was that I retain William Burns, whom he had the greatest confidence in. Burns cost me

$25,000 out of my own pocket…[610]

Pompous and self-aggrandizing, the celebrated private eye presented himself as a meticulous investigator of complex crimes. But unbeknownst to most, Burns brought with him to Atlanta fresh wounds to his reputation, inflicted by no less of a power than President William H. Taft. Taft had pardoned an Oregon man convicted of land theft because Burns was found to have rigged the jury, among other misdeeds. A few years before that in 1908, Burns was involved in a San Francisco corruption case in which he was suspected of dynamiting several buildings to make it appear to be an act of a key figure in the case, the Jewish politico Abe Ruef.[611] Now for a hefty $4,500 retainer ($100,000 in today's dollars) from Lasker, Burns would put his international "expertise" to work in Atlanta on Leo Frank's behalf.[612]

The slapstick comedy troupe *Keystone Kops* was just beginning their silent movie career in 1914, but it would be no surprise if it were found that they were inspired by the comically inept William J. Burns Detective Agency.[613] Burns could not have made a worse first impression, promising Atlantans that he would resolve the already-solved crime and clear up the murder "mystery" without delay.[614] He called the Atlanta police "stupid" and pointed out that the mayor himself had publicly called them "incompetent." "As a rule," he pompously (and prophetically) professed, private detectives were a "bunch of liars, crooks, and incapable asses masquerading under the bogus title of detective."[615] And with those introductory remarks, the greatest of all detectives set about ferreting out the crime of the century.

With Frank only weeks away from the gallows,

Burns had precious few days to "obtain evidence"[616] that would convincingly and decisively exonerate his "secret" client. While Frank's legal team was filing brief after brief seeking a new trial in every possible venue, Burns and his men were in the trenches re-interviewing witnesses and tracking down "new leads." And then something strange began to happen. Several of the trial witnesses who had been in the company of Burns came down with memory loss or changes of heart, claiming they were now ready to reverse their testimony if Frank were granted a new trial. And as these miracle retractions began to pile up, the scoop-hungry press fed off each "revelation," making it appear that the conviction of Frank was not as airtight as had been presumed.[617]

At trial the prosecution proved that Frank murdered Mary Phagan on the second floor, but the defense claimed Conley pushed her into the basement from the first floor and strangled her there. Astoundingly,

- Burns "found" a woman who claimed she was walking by the pencil factory at the exact time of the murder and heard "the agonized pleading of the girl who was being tortured in the factory basement." *And* the woman could tell by the *girl's voice* that her attacker was not a white man! Said she: "I thought some negro was whipping or killing his wife…" (or, curiously, "some negro riot" was occurring).[618]

- Burns "found" a pencil factory employee named Cora L. Leffew who now claimed to have seen the

strands of hair on the second-floor machine and was certain they were not Mary's;

- Burns "found" another, named Georgia Denham, who claimed to have had a conversation with James Conley in which she asked him about stains on his shirt—the ones which were said to have instigated his arrest. "The negro" told her (and no one else) that the stains were not rust, but blood—and that his nose had been bleeding. She also explained why she had withheld this damning information for over a year: she blamed city detectives who took her affidavit and then ignored it.[619]

- Burns "found" a white Baptist preacher named C.B. Ragsdale who swore that he had overheard "two darkies" talking on the street and that one of them was James Conley, whom he heard confess to the crime![620]

- Burns "found" two prominent Jews who, *all of a sudden*, remembered that they had seen Frank on the street at exactly the time necessary to provide an alibi for him. Frank, *all of a sudden*, a full half year after his conviction, remembered seeing them as well.[621]

- Burns "found" the mother of a factory employee who—exactly one

year after the murder—remembered that she was actually in Frank's office when Mary Phagan arrived there, and saw her leave as Frank remained in his office.[622]

- One girl "came forward" claiming that Conley had made "drunken advances" to her just a week before Mary Phagan's murder, in "exactly the same spot" where the Frank lawyers claimed Conley killed Phagan. This same "little factory girl" had earlier testified in court during Frank's trial but had made no mention of the alleged incident.[623]

His legend amplified with every newspaper edition, and Burns succeeded in turning many of those evidentiary molehills into major mountains of doubt about the verdict in the public mind outside Georgia. To rank-and-file Georgians, it all had the stench of bribery, graft, and fraud, and rumors of such were rampant; and the local press seemed uncritically accepting of it all.[624]

Leo Frank: "I am not a pervert."[625]

Frank's lawyers believed that the jury was influenced as much by the unchallenged charges of Frank's sexual lewdness as by the murder evidence. Indeed, Frank himself believed that "the charge of perversion…made it impossible for me to get a fair trial."[626] In order to achieve a full and lasting vindication, Burns would have to cleanse Frank of

that charge. And if he could, in the same artful motion, apply it to James Conley, Burns would surely be worth every penny of his enormous fee.[627]

Thus, the Frank team strategy was to stress the act of rape in Mary Phagan's murder, and in so doing the Frank team felt they could convince a predisposed white America that *only* a Black man could be responsible for the brutal killing of this white girl.[628] Dr. Stuart Rockoff concurs:

> Frank's trial lawyers also relied upon the stereotype of the black rapist to argue that Conley was the one most likely guilty of the crime….They argued that due to the sexually violent nature of black men[,] Conley had to be the perpetrator of the crime.[629]

And here Burns, using the high-profile forum provided by Adolph Ochs's *New York Times*, was especially creative. Under ludicrous headlines like "Burns, Besides Clearing Frank, Aims to Fix 20 Ripper Crimes on Negro," the "world's greatest detective" said he would be able to prove that Conley was the serial murderer of twenty Black women in the Atlanta area over the previous three years. He contended that notes left at the scenes of those murdered "negro girls" bore "a marked resemblance" to those at the Mary Phagan murder scene.[630] No proof beyond the famous sleuth's own unchallenged word was offered and none was asked for. In fact, according to a recent article on the "Ripper," the only "notes" allegedly left by this serial killer materialized in March 1914, when firefighters found notes pinned to fireboxes around the city. The notes' author promised to "cut the throats of all negro women" found on the streets after a certain hour of the night. The notes

appeared a full three years after the murders began and, suspiciously, at the exact same moment that Burns had entered the Leo Frank case.[631]

On Frank's alleged perversion, Burns readily shared his expertise:

> Many perverts occupy high places in society and in business. It is not a difficult matter for me to locate one, however. Abnormality has its unfailing marks. Frank is a normal man. I am satisfied of this fact.

He called in six physicians to examine Frank in one twenty-four-hour period, among them "specialists on nervous diseases."[632] No medical specialists needed for the Black man James Conley, however, whom Burns insisted had a "perverted brain."[633]

And Frank's public-relations team of confirmed eugenicists went to work pairing James Conley with the word "pervert" at every opportunity. Attorney Reuben Arnold set the tone, reiterating that Conley was indeed "bestial" and that "to call him a pervert is to pay him a compliment." At trial, Frank's attorneys had mocked as "prudish"[634] those who raised questions about Frank's sexual improprieties. But now, when falsely applied to Conley, the defense treated such deviancy as a matter of national security. Yet another Frank lawyer insisted that to a Black man, there was no prize "above life itself" other than "the privilege of debasing a white woman."[635]

But even as they ramped up their claims of perversion against James Conley, the higher-ups on the Frank team were secretly expressing real concerns about the sexual normalcy of their client,

Leo Frank. PR team leader Albert Lasker's private view of Frank was harsh and disturbing:

> It was very hard for us to be fair to him, *he [Frank] impressed us as a sexual pervert*. Now, he may not have been—or rather a homeosexual [sic] or something like that…[636]

The "us" he was referring to are the two noted newspapermen who had joined Albert Lasker in his first meeting with Frank: the editor of the New York *Evening Journal* Arthur Brisbane and the editor of the *Atlanta Georgian* Keats Speed—*and* the man whose very responsibility was to pin the "pervert" charge on James Conley, one William J. Burns! Keats Speed remembers the episode:

> And when we got out and started down the courthouse steps—Lasker hated him —he said, "Well, I hope he [Leo Frank] gets out…and when he gets out I hope he slips on a banana peel and breaks his neck."[637]

None of this, of course, got beyond the private correspondences of those involved, but it raises serious concerns about *why* they dedicated so much time, effort, and money to the cause of a man they seemed to all agree was a despicable character and very likely a murderer.

The Miraculous "Carter Letters"

William J. Burns's arrival appeared to revive

Frank's chances for a new trial. But Burns had boastfully proclaimed that he would find the murderer, not simply exonerate Leo Frank. If the actual murderer were not apprehended and proved guilty, Frank would remain under suspicion in the public's mind. So moneyman Albert Lasker wrote to Frank's attorney Herbert Haas on April 20, 1914, that Burns's fees would be in jeopardy unless he could provide some conclusive evidence of Frank's innocence. And if a confession by the murderer (other than Frank) could not be achieved,

> it will hurt us and may do the case more harm than if he had not entered into it at all. In other words, in face of his promises to name the murderer, unless he names him in such way as to be direct proof, the people in the North are in the frame of mind where they will feel that they have been fooled, and it will hurt the case. I have seen many editorials along these lines, and I cannot begin to tell you the number of people who have spoken about it in this way….I note particularly the enormous bill that Burns is running up, $15,000.00 to $20,000.00. Believe me, my dear Mr. Haas, there is a limit to the money that can be raised, and unless Burns proves something direct, there is a limit that can be paid him.[638]

If William J. Burns detected anything in this case, it was the unsubtle message in Lasker's communiqué. Shortly thereafter and perfectly on cue, Burns was able to announce his most important "find" yet: a set of letters he claimed were written by James Conley while he was incarcerated at the

Atlanta jail and addressed to a Black female inmate named Annie Maude Carter.[639] They were, the Frank team excitedly insisted, filled with "proof" of Conley's "perversion," showing him to be sexually "abnormal"—the very same terms widely applied to Leo Frank.[640] Burns characterized the letters as both "startling" and "dreadful."[641]

> They show beyond a peradventure of a doubt that Conley is an abnormal man—just the vile, degenerate creature that I have heretofore pictured him. They are full of the vilest, most abominable language, dealing with Conley's lust. His perverted passion was aroused by her and most of the letters are full of this vile stuff. It fills one with loathing disgust to even merely read them. They are the most nauseating things imaginable.

The letters show, Frank quickly added, that Conley "is a vile degenerate and practiser [sic] of unnatural crimes which the law of this state punishes by life imprisonment in its penitentiary."[642] The explosive new "documents" contained no Conley confession, yet proved beyond all doubt that he—and he alone—had murdered Mary Phagan!

The so-called Carter letters had the added value of clearing up a misinterpreted feature of the murder notes found next to the body of Mary Phagan. The prosecutor had convinced the jury that the murder notes were the product of Leo Frank's mind and not Conley's because of the use of the words "negro" and "did," when Blacks would have used the words "nigger" and "done." The Carter letters showed Conley using both "negro" and "did" and thus they "completely explode the argument of

the state," Luther Rosser proclaimed. The discovery of the letters was indeed a miraculous stroke of good fortune for Leo Frank.

Brimming with confidence, Leo Frank issued a public proclamation:

> I submit to the people of Atlanta that [Chief of Detectives Newport A.] Lanford's bluff has been called. He knows perfectly well that the charge of perversion against me was a cowardly lie. I now make this solemn declaration: I am not a pervert, nor an immoral man. These charges against me are a vicious mass of lies.[643]

But as the chest-thumping seemed to signal a renewed hope for Frank, the woman who supposedly had received the correspondence, Annie Maude Carter, seemed to have disappeared. No one could question her about the letters or the circumstances of their appearance. The prosecutor, the press, the public had only an affidavit attributed to her by Frank's defenders. Ms. Carter, it turns out, was in the custody of the William J. Burns Detective Agency in such an unusual arrangement that Judge Benjamin H. Hill would not accept the affidavit until she could be questioned by the court. He held Burns in contempt and gave him a deadline to produce his witness.[644]

Once Carter was brought back under court order, the backstory of the letters changed quite dramatically from the Frank Team version. Conley had always denied writing the letters[645] and Carter, after first going along with the stunt, admitted that they were forged and that she had actually worked in an undercover capacity for William J. Burns. The

Atlanta Constitution reported:

> [S]he told Judge Hill that she had been sent away from Atlanta under direction of Detectives Burns and [Dan] Lehon, and that, on one occasion, she had been supplied with $5 pocket money….Two attorneys appeared in court to represent the negress. One [George Gordon]… stated to the court that he had been employed to represent the woman by Isaac Haas [Leo Frank's attorney!].[646]

Carter claimed that "she had not received any vulgar letters from Conley, and she did not believe him to be a degenerate."[647] As Burns's jailhouse plant, Carter had indeed talked to Conley "for three hours" and concluded that "Conley is not a pervert." He gave her two or three letters, she admitted, but "there was nothing vulgar in them." And contrary to a Frank-placed rumor, she said Conley never confessed to her that he had murdered Mary Phagan.

A clearly irritated Judge Hill had this exchange with Carter:

> Hill: After you made the affidavit who first suggested that you leave?"
>
> Carter: "Mr. Burns and Mr. [Dan] Lehon suggested that I leave."
>
> Hill: "Why?"
>
> Carter: "They said that I better go where I would not come in contact with the city detectives who would want me to make

different statements."

Hill: "Had you turned over the letters to them."

Carter: "I didn't see the letters until I got to New Orleans."

Hill did not pursue that line of questioning, or at least the newspapers did not cover it. But Carter —who was supposed to have been the recipient of those letters while in that Atlanta jailhouse *claimed under oath that she did not see them* until she was in another state altogether. Further, she identified Frank's attorneys—the Haases—as having arranged the entire operation.[648]

It seems that Carter had served her time as a cleaning woman at the jail, where in the course of her duties she had conversations with Conley. Carter made this association known to a Jewish Decatur Street pawnbroker named Jake Jacobs, and it was Jacobs who contacted the Frank Team to suggest that they might take advantage of this woman's access to James Conley.

Carter testified that Jacobs had given her some jewelry which she had in pawn and that he also had given her a suitcase "before she would allow him to take her before William J. Burns for an interview."[649] The apparent result of that inducement was her participation in the scheme. As Carter sat before Judge Hill she unhesitatingly and specifically repudiated the initial (false) affidavit that had come out of those shady associations.

When asked who supplied the letters, Burns, now on the defensive, pled ignorance;[650] but Judge Hill probed:

Q: Was that Dr. [George] Wrenn?

A: I don't know. It was a man about 25 or 26 years old.[651]

Q: He is the man who furnished you with the translation of these letters?

A: He translated them for me, then Leonard Haas translated them.

Q: When did you tell counsel for Frank about the notes?

A: Two of them, Messrs. Leonard and Herbert Haas, were present when I got them….[Then] Wrenn interpreted the notes…

Q: How long did you have them in your possession before they were interpreted?

A: Two or three days.

Q: Who gave them to you?

A: C.W. Burke.

Q: Then Burke deserves the credit for this?

A: Yes.

Burke, lo and behold, was a detective that worked out of the office of Gov. John M. Slaton, who was the silent partner in the law firm of Luther Z. Rosser, Frank's attorney. It was later revealed

during Burns's criminal trial that a veritable *Who's Who* of local Jewish leadership was present when the false affidavit was assigned to Annie Maude Carter. Rabbi David Marx led the group that included Isaac Haas, Isaac Schoen, B. Wildauer, J.O. Knight (notary), and Otto Schwab, all of whom were assembled for the ceremony in the law offices of Herbert and Leonard Haas.[652] What's more, the "handwriting expert" who claimed the letters to be authentic had been hired by Frank's secretive financier Albert Lasker. That Burns himself was once an expert in counterfeiting for the United States Secret Service further discredits the whole episode.[653]

Solicitor Hugh Dorsey stated to the court that the so-called Carter letters were "founded upon falsehood."

> The said Conley denies the authorship of said letters. The circumstances indicate that Jim Conley never wrote any such letters, and the state insists that the letters produced, containing vulgar and obscene language and referring to indecent matters, are forgeries.[654]

Even though Frank's lawyers could take it no further in the judicial arena, such lurid and sensational tripe was made to order for the Lasker campaign. The team continued to push the letters so as to complete their evidentiary triad of rape, Black men, and white girls. Author Jeffrey Melnick:

> What is most disturbing about the projections of Black rapists as the only possible villains in the Mary Phagan murder case is that *many of them were explicitly authored by Frank's attorneys*.[655]

Burns's forged and fraudulent "Carter letters" were, writers have said, "the missing piece in the defense claim that Conley, and not Frank, was responsible for the crime."[656] A year later Georgia's governor John Slaton would rely heavily on those forgeries to justify his commutation of Frank's death sentence.[657]

Burns was undaunted as he triumphantly but prematurely announced:

> I have absolutely cleared Leo Frank of the charge of perversion, *which was wholly responsible for his conviction*, and I have also demonstrated beyond a shadow of a doubt that Jim Conley is a pervert and was the murderer of little Mary Phagan.[658]

That statement, though, was aimed more at proving to his employers that he had fulfilled the terms of his lucrative contract, than at providing a true assessment of the "proof" he had gathered. The so-called Carter Letters remain yet more proof of the lengths Leo Frank was willing to go to destroy James Conley's personhood, his reputation, and his race.

The private correspondence between Atlanta and Chicago really told it all. Herbert Haas wrote to Albert Lasker on May 2, 1914:

> The situation is worse today than it has ever been. It is desperate. All of us feel that the situation is hopeless. Unless the Supreme Court of the United States sustains the constitutional point, Frank is a doomed man….It is the belief of nearly all our friends that Burns' connection

with the case has done us irretrievable damage.

Carter's Murder For Hire?

Annie Maude Carter had much more to say about her association with Leo Frank and his crew and revealed damning information that scholars of the case have heretofore ignored. Not only had this Black woman publicly repudiated the letters Frank claimed she had exchanged with James Conley, but she revealed in a sworn affidavit that Frank's friends had actually tried to recruit her to poison Conley. She named two individuals: National Pencil Company stockholder Oscar Pappenheimer[659] and Milton Klein, of Daniel Klein & Son, the B'nai B'rith member who publicly took credit for hiring William J. Burns. Even the *New York Times*—a certified member of the Frank Team—had to report in its May 6, 1914, issue on the "POISON PLOT AGAINST CONLEY?"

> [O]ne day while walking past Frank's cell block one of Frank's friends came to [Carter] and asked her if she wanted to get rich "right quick." She said that the man asked her if she ever visited Jim Conley's cell. She said she answered that she was going there then.
>
> Thereupon, according to the affiant [Carter], the friend of Frank said, in effect: "Take this vial and be mighty careful of it. Don't get any of it on you. It is dangerous. Just put a drop in the food

> that is given Conley."
>
> The woman said she replied that she did not want to have anything to do with killing anybody, and that Frank's friend said that she should not care anything about one negro less, especially who had put the Phagan crime on Frank.
>
> She said she did not know this man's name, but that he had black hair and wore his hat pulled down over his eyes.
>
> She said she had seen him in company with a man by the name of Pappenheimert [sic], and that he had come to Frank's cell with the Kline [sic] boys.[660]

None of this was ever pursued, either legally by the Georgia justice system or academically by students of the Leo Frank case. Many scholars are willing to validate her "negro testimony" about the letters *before* Carter repudiated them in open court, but not her explicit testimony *under oath* about a murder-for-hire plot by the friends of Leo Frank.[661]

All of Georgia watched this entire Burns burlesque unravel before their eyes in the re-trial hearing for Leo Frank. Judge Benjamin Hill did not even need to hear arguments from prosecutor Hugh Dorsey before he denied Frank a new trial and set in motion an investigation into the tactics and methods of William J. Burns.[662]

More Burns Chicanery

By May of 1914, Annie Maud Carter had pulled the bandage off a festering wound only to expose an underworld operation of major proportions. So many "witnesses" dredged up by Burns's dragnet were so plainly fraudulent that scholars today are embarrassed to mention them.

The "respected white preacher" named C. B. Ragsdale admitted that his "two darkies" were complete fabrications and that Frank's team had paid him to lie.[663] "They were just handing money out," charged the clergyman. He had received $200 for his "darkies" story—a half-year's pay for most of Frank's factory employees.[664]

A Black woman named Mary Rich operated a lunch stand near the factory. On the day the murder was discovered police found the basement door to the alleyway had been unlatched, and they later charged that Frank had unlocked the door to enable Conley to get in to burn the body of Mary Phagan. Burns claimed that he had an affidavit from Mary Rich admitting that she had served Conley at 2:20 p.m. on the day of the murder after seeing him emerge from the alleyway next to the factory. But nobody told Mary Rich, and she charged that the story was invented by none other than the local rabbi David Marx and Frank's own wife, Lucille. "Mrs. Frank said to me: 'If you will sign this affidavit you will take the rope from around my husband's neck.'"[665]

Two other Blacks charged that the Frank team simply forged their names on falsified affidavits. Yet another white woman detailed the efforts made "to get her out of town," efforts that included an offer of $100 and a marriage proposal from an agent hired by Frank and using an alias. Much of the

money, when it could be traced, seemed to come from Herbert J. Haas, Frank's other Jewish lead attorney, who was the conduit for Lasker's secret funds.[666] But that is not all: Some of William J. Burns's ham-fisted attempts to pressure and bribe witnesses on Frank's behalf occurred at Governor Slaton's law firm *and in Governor Slaton's own office*.[667]

In the end, Leo Frank's perjurious house of cards collapsed very publicly and completely.[668] His manufactured "revelations" only fortified everyone's confidence in the original guilty verdict, and layered upon that conviction new felonies, expanding the associated pool of criminals to include even more friends, associates, and hires of Leo M. Frank.

William J. Burns so completely botched the task that he and his agents[669] soon faced charges of subornation of perjury, "hiding a negro witness," bribery, inventing evidence, and buying testimony —illegalities that led to a revocation of Burns's license to practice in Atlanta.[670] Proving himself to be the ultimate recanter, a remorseful Burns appeared in court and "distanc[ed] himself from" the Annie Maud Carter letters—in effect admitting they were faked.[671] Attorney Reuben Arnold also repudiated the letters, saying in court: "Conley isn't a pervert…" "I don't believe there has been any perversion in the case on the part of Conley or of Frank."[672]

Georgia's favorite son, Tom Watson, was monitoring all this in the pages of his weekly *Jeffersonian*. He mercilessly mocked the "great detective," whom he renamed simply "the Jackass."

> I think I said that Burns might trace a lost cow, if she had a bell on her neck

> and toted a red-light lantern on her tail. I now take that back. I was too hasty. My revised opinion is, that Burns couldn't even find a lost cow, unless she were equipped with a wire-less telegraph outfit, and regularly flashed out S.O.S. signals, every time she stopped to make water.[673]

Louis Marshall despaired at the collapse of his team's efforts, privately calling Burns's methods "ridiculous" and "farcical" and "a burlesque." He said he was "disgusted" that Burns brought the case "to this point of destruction." Tellingly, Marshall was not repudiating Leo Frank's blatantly racist defense strategy, he was simply scoring Burns's incompetence in carrying out *his* part of their racist plot.[674] Even attorney Herbert Haas, ignoring his own role as Lasker's bagman in the fiasco, had to admit that "Burns's connection with the case has done us irretrievable damage."[675]

The Sleazy Conduct of Leo Frank's Private Eyes

Some of the Burns operatives were forced to stand trial for just a portion of the avalanche of illegalities that included fraud, bribery, perjury, forgery, and even murder-for-hire. None of the higher-ups orchestrating the treachery—Lasker, Haas, Ochs, Marshall, Marx, Frank—were ever held accountable for their roles in the bizarre episode. Only Tom Watson held them up for public ridicule in his monthly magazine:

> Decidedly, it is the blackest record of

> systematic effort to save the guilty, destroy the innocent, debauch witnesses, manufacture evidence, and create a public sentiment in favor of a fictitious case.[676]

Judge Hill scored the "famous sleuths," who were seeking "not truth but money and notoriety." He called them "a menace to justice" and declared: "These men do not detect crime. Rather they encourage crime. They are a menace to the peace of the state and an obstruction to the administration of justice."[677] Albert Lasker finally admitted in 1937 what everyone already knew in 1914:

> Burns cost me $25,000 out of my own pocket, and…by God, *he put in as much perjured stuff as the other side did before we finished.* I don't say he did, he had [h]is operatives, I guess. You can run that sort of a thing—until it embarrassed our case at times.[678]

Lasker is here admitting to a serious felony for which he was never indicted. Judge Benjamin Hill talked tough, assessed fines, but in a surprising move he dismissed some of the charges and ordered no prison time for Burns's gaggle of operatives. Turns out, Lasker may have persuaded Judge Hill into granting Frank's felons an undeserved leniency. In a private letter to cohort Adolph Ochs, dated March 12, 1914, Lasker seemed to be assessing the opportunity for judicial bribery:

> The situation looks serious, for I found that Judge Hill…comes up for re-election in June. He has a large family to support, and it is but four months since he

> resigned a position in a Higher Court—where the salary was $4,000 a year…—to fill a vacancy by appointment, in this lower court at $5,000 a year. This would not seem to augur well.[679]

There is no proof that any money changed hands but it is hard to believe that Lasker's blatant query about the judge's personal finances could have had any other purpose.

Below is a chart that catalogues the illegalities which have come to light that can be directly attributed to the Leo Frank legal team.

Catalogue of Corruption: Dishonest, Unethical, Criminal Behaviors of Leo Frank's Defense Team †

Description
Bribery of Judge Epps
Bribery of Grand Jury Foreman
Intimidation of Witness
Attempted Bribery of Witness
Alteration of Witness Testimony
Theft of Evidence
Theft of Evidence
**Theft of Evidence

down and live with Monteen, and 'pick' her. My mother refused to let me do it, and would not let me work for Burke any more."

Attempted Bribery of Mack Knight

Mack Knight, husband of Atlanta detective Mrs. Mack Knight, at Frank's home, was offered money and employment at high wages if he would swear that the injuries he had sustained in a railroad accident were caused by a beating by Atlanta detectives.

Attempted Bribery of Alonzo Allen

William Burns brought Alonzo Allen, a Black man, to Chicago for several days, pressuring him to swear that Conley had confessed to him that he alone had committed the murder. Allen refused, despite large sums of money left on a table that were his for the taking.

Blackmailing of Carrie Smith

Blackmailing of C. W. Burke threatened Smith with exposure of alleged misconduct at her place of employment if she did not change her trial statement in which she testified of Leo Frank's bad character. Smith, a factory employee for three years, swore that she was offered $20 to sign an affidavit favorable to Frank ($500 in today's dollars). The person bribing her was a "Mr. Maddox" (very likely Burke using an assumed name), who made the offer in Governor Slaton's private office. She was also expected to try to stealthily become a roommate of Monteen Stover's to persuade her to change her testimony.

Attempted Bribery of Minnie Maggie Nash

Mrs. Nash was offered money to get her to change her testimony about seeing Frank go into a private room with a female employee. She refused, telling Burns "he might try one hundred years" but she would never do it.

Attempted Bribery of Helen Ferguson

Attempted bribery of Helen Ferguson testified that Frank had refused to give her Mary Phagan's pay envelope. It was this refusal, on Friday evening, that compelled Mary to go to Frank herself to collect her pay the next day, whereupon she was murdered. Ferguson swore that Jimmie Wrenn, who worked for C. W. Burke, offered her $100 and all her expenses ($2,500 in today's dollars) if she would leave Atlanta. She said that Wrenn tried to persuade her to marry him and introduced her to his "father." "[He] said he wanted to marry me, but wanted me to sign an affidavit first." Wrenn's "father" was Frank's private detective C. W. Burke.

Attempted Bribery of Conley

Attempted Bribery of Conley's account of Frank's sexual encounters. He swore that C.W. Burke had offered him $100 to sign a paper, "to be used before the Pardon Board, to keep Frank from hanging."

He said he had gone to Dublin, Georgia, to do some work for a bank, and two Jews came to him and offered him $400 to leave the state. They came to him several times, and renewed the offer, stating that they meant to get Frank a new trial.

Forged letter was used by Burns's agents to agree to claim to have received obscene letters from James Conley.

According to Arnold Madison, "A Jew came up—Mr. [Oscar] Pappenheim[er] was there, too"—and offered a large sum of money if she would put poison in James Conley's food.

Frank's team forged the time slip of factory night watchman Newt Lee to make it appear that he had time to leave the factory on the night of the murder.

A bloody pick was planted at the home of Newt Lee—a deception that made him the target of lynching threats. Lee was fully exonerated, and it was established that the bloody shirt was planted by Frank's legal team.

Planted evidence found" by Pinkerton detectives in a previously searched area of the factory was claimed by Frank to be the murder weapon used by Conley. Factory employee Wade Campbell, however, testified at the trial that on the day of the murder, Frank "had a club which he used to play with, in his hand, and he was carrying it around." ††

A Dec. 1914 report addresses the "discovery" of Mary Phagan's pay envelope by a detective hired by Frank: "The mysterious pay envelope, bearing not a single fingerprint of any kind—even a smudge, had to have been a plant."

Bribery of Rev. C. B. Ragsdale church testified he was paid $200 for signing a false affidavit claiming he had overheard Conley confess to the murder.

A letter that appeared to be from the death of trial judge Leonard S. Roan expressing doubt about Frank's guilt was believed by his family and Solicitor Dorsey to be forged by Frank's legal team.

Forged affidavit Jones said his affidavit to the contrary was forged.

Forged affidavit testified that Frank made an indecent proposal to her, but her testimony was retracted in a false affidavit by C.W. Burke.

Robbed David Marx and Mrs. Leo Frank approached

Black food vendor Mary Rich and tried to force her to sign a false affidavit that helped Frank's alibi. She refused but they submitted it anyway.

Mrs. J. Williams was induced by C.W. Burke to sign a false statement against Solicitor Hugh Dorsey. Burke brought her a basket of fruit in payment.

† Much of the data in this chart was drawn from the article "W.J. Burns and Dan Lehon Summoned by Solicitor Dorsey to the Frank Retrial Hearing," *AC*, May 2, 1914. The article subtitle of this pro-Frank paper is telling: "Forgery, Bribery, Trickery, Intimidating Witnesses, Threatening to Expose Scandals of Girls, All Made Against Men Who Are Working for the Defense." The editor might easily have added conspiracy to murder a witness. Burns never produced his promised report, and reportedly burned all his files on the Leo Frank case.

†† *Brief*, 52, 79, 141-42, 297; *AJ,* Aug. 12, 1913, 5; "Bloody Stick Now in Possession of Frank's Attorney," *AJ,* July 22, 1913, 1.

This list is by no means the full extent of the criminal operations of the agents working on behalf of Mr. Leo M. Frank. Despite the scope and seriousness of these crimes, most were not adjudicated, and those responsible received only fines and no jail time. Burns had his license revoked. Burns's cohort, Dan Lehon, was expelled from the Chicago Police Department for bribery and conduct unbecoming of an officer. Burns's agents C.W. Burke and Jimmie Wrenn appear to have gotten away scot-free. As incredible as all this sounds, Burns parlayed this sleazy résumé into a directorship of the Federal Bureau of Investigation from 1921 until another scandal forced him to resign in 1924.

Under oath and before Judge Hill, Solicitor Hugh Dorsey finally had the opportunity to question William J. Burns: "During your

investigation what criminal act did you ever discover that Conley had committed?" Answer: "I don't know that I have discovered any..."[680]

Leo Frank's Massive Criminal Insurgency

In 1914, Leo Frank's forces unleashed a wave of criminality, the scope of which is unprecedented. The details of the operation were captured in rare fashion in this article, "Return of Negress Ordered by Judge," by reporters of the *Atlanta Constitution* (May 5, 1914) covering the trial of the agents and operatives of the William J. Burns Detective Agency.

RETURN OF NEGRESS ORDERED BY JUDGE

If Anna Maud Carter Is Not in Atlanta Within Five Days Her Evidence Will Not Be Considered.

Charges of bribery, perjury and coercion of witnesses will be thoroughly investigated by Solicitor Dorsey and then a number of prosecutions will follow, according to a statement by the solicitor on Monday night.

"Prosecutions will certainly follow later on," he said. "It will be my duty as a prosecuting officer to see that justice is done. Outside of that, I can say nothing else, except that the scope of my prosecutions will include all who have been guilty of crookedness—even the men higher up."

Judge Ben Hill demanded of Leo Frank's defense yesterday afternoon that Anna Maud Carter, the negro witness, be returned to the jurisdiction of the court within five days.

He declared that if she were not brought back to Atlanta within that time he would decline to consider her evidence or any evidence in which she was involved.

"Detective Burns admitted before me," said Judge Hill, "that he had sent Anna Maud Carter from the jurisdiction of the court. I want an order drawn commanding Anna Maud Carter to be returned to Atlanta in five days or I will not consider any of the evidence in which she is concerned."

A few minutes later Judge Hill supplemented his statement with these words:

"In making this demand I do not mean to reflect on the counsel for Frank. It was testified before me that Detective Burns had removed the Carter woman."

Will Bring Woman Back.

It is said that immediate efforts will be made to bring the missing woman back to Atlanta. She is now in New Orleans, where, according to a letter she recently wrote relatives in this city, she is working with the William J. Burns Detective agency. This letter was read to Judge Hill by Solicitor Dorsey Monday afternoon.

Anna Maud Carter is the negress who accuses Jim Conley of having confessed to her the murder of Mary Phagan. A literal mountain of evidence was introduced by the solicitor Monday to show that she had conspired with George and Jimmy Wroan in Fulton jail, to frame up on Conley. Other testimony was adduced to show that she had told friends and relatives upon being released from jail that she had tried to "pick" Conley, and that he had firmly maintained that Leo Frank was the murderer.

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Regarding the Carter woman, Attorney Arnold was asked by a reporter for The Constitution if lawyers for Frank or the Burns agents would seek to bring the woman back to the city. Mr. Arnold smiled in reply, saying that he did not know as yet.

A surprising new phase of evidence that arose Monday was an affidavit from Mrs. Mattie Wallen, the young wife of J. M. Wallen, who swears that on the morning of the day Mary Phagan was slain, she saw Leo Frank and Jim Conley talking to each other some time between 10 and 11 o'clock, and that they were apparently engaged in earnest conversation.

This evidence was introduced to bear out in part that portion of Conley's testimony bearing with a meeting he swore he had with Frank on the morning of the 26th at Forsyth and Nelson streets, when Frank is alleged to have instructed him to come to the pencil factory that noon to "watch" for him. Mrs. Wallen' affidavit has been kept a secret by the solicitor, and created a sensation when it was sprung.

Lehon Nears Contempt.

At the very outset of the retrial proceedings Monday morning a sensation was created when Dan S. Lehon, southern superintendent of the William J. Burns forces, was practically put under arrest for contempt of court. Following the strenuous examination which he underwent before Solicitor Dorsey he made a heated tirade against the solicitor's tactics.

They were cut short by Judge Hill, however, who ordered him to cease, and who instructed Deputy Sheriff Pierpont Miner to take charge of the Burns man. Miner escorted Lehon into an adjoining room, where he remained for some little while. Later, Judge Hill asked the court stenographer to read that part of Lehon's statement which attacked Dorsey.

Attorneys Arnold and Rosser stated that the witness had not intended to be in contempt. Judge Hill ordered the words expunged from the record, called Deputy Miner into the room and ordered that Lehon be allowed to go his way. Only two witnesses were examined—Lehon and L. F. Eubanks.

Mary Rich, the negress who was alleged by the defense to have made an affidavit in which she stated she saw Jim Conley emerge from the rear of the pencil plant at 2:15 o'clock on the tragedy date, has made an affidavit in which she denies having made the document submitted by the defense.

Refused to Sign Paper.

"Some time recently," she swears, "Mrs. Lucile Frank and Rabbi Marx and two men came to see me, and tried to get me to make an affidavit. The affidavit was not true, and I refused to sign it. Mrs. Frank said to me: 'If you will sign this affidavit you will take the rope from around my husband's neck.' I replied that I could not tell a lie, and that to sign the paper would be telling a lie.

"One man with Mrs. Frank and Rabbi Marx tore off a little piece of the paper that was in his hands. This man was C. W. Burke. He said: 'You take this paper.' I told him that I didn't want the paper, and he said: 'This will not hurt you, but you keep this paper. It is just for you, so that you will know it when you see it again.' I took it and kept it.

"I showed it in a few minutes afterward to Mr. F. J. Wellborn, a man that I have known a good long time, who was standing by when these people were talking to me. Afterwards I took the paper to somebody in the office of Solicitor General Hugh N. Dorsey. I have looked at the piece of paper attached to the affidavit signed by F. J. Wellborn, and it looks to me to be about the size and shape of the paper which Burke gave me. Burke also told me that if I got into trouble I might know the cause of it."

Dorsey presented a number of affidavits dealing with an alleged conspiracy within the county jail between Anna Maud Carter and Dr. George Wreen and Wreen's brother, Jimmie Wreen, to "frame-up" on Jim Conley. Dr. George Wreen was a prisoner serving sentence for complicity in the Gilley diamond robbery.

One angle of this evidence is an affidavit from Frank Reese, an ex-prisoner, who lives at 7 Kingsley street. He was a trusty prisoner in the Tower, worked in the prison laundry and did odd jobs required of trusties.

"I have heard Dr. Wreen telling Conley that he had been tried, and that he (Conley) could take the Mary Phagan murder on himself and that it would free Mr. Frank," said Reese, "and that Conley could never be tried any more for it. Conley refused to consider this.

Saw Them Talking.

"Wreen talked to Fred Parkerson—another prisoner—and myself several times, and tried to get us to agree to go into Conley's cell and come out and claim that Conley had confessed to us. He said we would get lots of money if we did. I knew Annie Maud Carter, and I have seen her and Dr. Wreen talking together very often.

"I saw Annie Maud Carter go to Conley's cell once, and Fred Parkerson called to her that if she went in she would be locked up. Both Fred and I knew she was crooked, and we cautioned Jim Conley about her. I saw Dr. Wreen at one time throw a note to Annie Maud Carter from the second floor. She carried it to Conley's cell, pitching it through the bars at the wing door.

"When I got out of jail Dr. Wrenn came to my house one morning at 7 o'clock with a long, white paper, asking me to sign it. I cannot read or write, and I told him I wanted to wait to see what was in the paper. He said that it was just a paper to the effect that I had carried notes from Jim Conley to Annie Maud Carter.

"I did not know what was in it, and so I wouldn't sign it. He said that inasmuch as I couldn't write, he'd write it for me. I told him I wouldn't authorize anybody to write for me nor sign my name to anything unless I was aware of its contents."

Fred Felkerson, the prisoner alluded to in the Reeves affidavit, has signed a statement to the effect that C. W. Burke, the private investigator attached to Luther Z. Rosser's office, and Jimmie Wrenn, Burns assistant, and Dr. George Wrenn, the convict named in Reeves' affidavit, have often conferred with Leo Frank in Frank's cell in the Tower.

He told a similar story of alleged conspiracy in which Wrenn figured to frame up on Conley. He swears that Wrenn told him and Reeves that they were in a position to make a lot of money, and advised them to go into Conley's cell and, upon coming out, pretend that Conley had confessed Mary Phagan's murder. He declares that he asked Wrenn why Wrenn himself didn't do this. Wrenn is said to have replied that he didn't care to get mixed up in the case.

Ivy Jones, the negro from whom the defense, in its new trial motion, purported to have obtained an affidavit recanting his testimony at the trial, has made an affidavit for the solicitor swearing that the defense affidavit is false and that it is a forgery.

Dorsey attacked the defense argument that the note-paper on which Conley wrote the murder notes was obtained from the basement, when he introduced a number of affidavits in rebuttal. One of these was from Philip Chambers, an ex-office boy in Frank's employ, who was a witness for the defense at Frank's trial.

Nothing Sent to Basement.

Chambers testifies now that Becker, upon leaving the employ of the pencil factory, moved his desk into Mr. Frank's office, and that it was thereafter used by Frank. He swears that no trash, books or paper ever stayed down in the basement, and that all order blanks left upon Becker's departure were used by Frank.

J. M. Gantt makes an affidavit in this chase to the effect that the order blanks were never destroyed, and at no time did he ever see any of the scratch pads sent in the trash to the basement. The trash, Gantt swears, was burned with all rubbish every day in the furnace in the basement.

Another affidavit bearing on this angle was one made by H. F. Otis, city fire inspector, who declares he was forced at numerous times to remind Leo Frank of negligence in keeping the basement maintained in compliance with fire ordinances. He instructed that all trash and rubbish be burned each day.

He swears that he heard Frank give Dorsey, the assistant superintendent, specific instructions to burn all refuse and to see that none of it remained unburned in the basement or anywhere in the factory building. Otis further testifies that such litter was burned under his personal supervision from April 1 1913.

R. W. Devore, a photographic expert attached to the A. K. Hawkes optical concern, has made an affidavit swearing that he photographed the murder notes for Solicitor Dorsey, and that he used a special color plate for the task, sending north for it. He says that, in his opinion, the number on the disputed blank is 1913. He also swears that T. A. Alexander, who recently issued a booklet bearing on the notes, admitted to him that he had instructed the photo-engraver who made the plates to "touch them up" a bit.

Much interest was centered around the J. S. Duffey affidavit which was submitted by Dorsey during the afternoon. Duffey, who is purported by the defense to have renounced his trial testimony, now upholds it and swears that he was induced by agents of the defense to make the recanting document.

He says that L. F. Eubanks, the car inspector whom Dorsey grilled on the stand Monday morning, and C. W. Burke had offered him money to sign a false paper, and told him that whenever he wanted money they would furnish him with it. He swears that he has borrowed in the neighborhood of $15 from Eubanks.

"On April 26, of this year," his affidavit reads, "Jimmie Wrenn took me in an automobile over the city, carrying me to dinners in cafes and to shows and then riding me toward Austell, Ga. I slept all night in the automobile. They brought me back the next day, and, when we stopped in front of the Marietta Chair Works on Marietta street, we were surrounded by a crowd of Jews, who pressed me with many questions bearing on my testimony."

Lent Duffey Money.

R. H. Dorsey, father of Duffey, has made a statement saying that Eubanks had told him that he was lending young Duffey money, and taking his note for same, but that the father need not worry, as his son would never have to pay it back. Young Duffey has been released from prison, in which he was lodged Friday night on an attachment issued by Judge Pitt.

C. Brutus Dalton, who, the defense alleged some time ago, had made an affidavit repudiating his testimony at the trial, was brought to Atlanta Monday by Detective John Black from Fort Myers, Fla. His new affidavit, which was introduced by Dorsey in the afternoon, sprang a decided sensation.

Dalton says that he was visited in Fort Myers by C. W. Burke, who asked for his signature to a document which was to be presented before the pardon board of Georgia in order to prevent the hanging of Frank. Dalton says he was offered $100 and a ticket to Atlanta for his signature.

Burke, Dalton swears, had a typewritten copy of some statement. He according to the witness, read a part of it, in which nothing was stated about a reversal of testimony. He signed the document, he states, expecting to receive the $100. That night, however, when he went to the hotel, Burke had disappeared, he states, and no $100 was in evidence.

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Dalton's affidavit contains part of his trial testimony, which he upholds in which he tells of having seen Frank carry girls and women into the dressing rooms after he had been seen hugging and kissing them. Dalton also swore to having carried beer and other drinks for Frank in Frank's office, where the latter, he alleges, was entertaining girls and young women.

An attack was made upon the testimony of Mrs. M. Jaffe, the wife of the Mitchell street jeweler, who made an affidavit telling of having seen Frank at 1:30 o'clock on the streets on the murder date. An affidavit was presented from Detective Mann Rosser, who swears to having gone to Jaffe's jewelry shop in answer to a call to police headquarters.

The husband, according to Rosser's affidavit, was seeking the aid of the police to find his wife, who he said had run away to Birmingham to meet another man, and upon departing had taken a ring belonging to a customer. Mrs. Jaffe, it is stated in the detective's testimony, later was returned and admitted having taken the ring. This affidavit, however, was not admitted by Judge Hill.

The affidavit of Rev. C. B. Ragsdale, the preacher who accuses defense and Burns agents of bribery, accuses Arthur Thurman, his attorney, of having engineered the conspiracy against Conley, in which the pastor was the most important figure.

Thurman, he states, had been his attorney for some time and was acquainted with his financial status. Several days before the Ragsdale affidavit was made public, Thurman had informed the minister, Ragsdale swears, that he could make a lot of money out of the Frank case if Ragsdale would frame a statement to be used in Frank's defense.

Ragsdale swears that he arranged such a statement and submitted it to Thurman, who pronounced it weak in spots, but who said that he could strengthen it wherever necessary. Later, he says, Thurman told him that he had got a negro to corroborate him.

The negro, however, fell down, according to the minister's statement, and Thurman asked that someone else be procured who could assist the preacher in his tale.

Ragsdale swears that he got R. L. Barber to make a similar statement. The frame-up was arranged to perfection, Ragsdale swears, and four or five subsequent conferences were held over the matter. On April 24, Ragsdale testified, C. C. Tedder, the Burns man, was called into the affair, and carried Ragsdale to the Burns office in the Healey building, where he was introduced to Dan S. Lehon.

Lehon, Ragsdale states, took the minister to the office of Attorney Luther Z. Rosser, where a stenographer took his "framed" statement. The affidavit then goes on to state how $250 was procured by Ragsdale and $100 by Barber through the agencies of Thurman & Tedder. The name of Lehon also figures prominently in the alleged transaction.

Helen Ferguson swore that she was approached by the defense agents by Jimmie Wrenn, who, under the assumed name of "J. W. Howard," made love to her, spent money lavishly on her, finally proposed marriage, and carried her to C. W. Burns, whom he introduced under the guise of his father—her prospective father-in-law, at which time her affidavit was obtained.

Ferguson Affidavit.

Her new affidavit for the state follows:

GEORGIA, FULTON COUNTY.—Personally appeared before the undersigned Miss Helen Ferguson, who, on oath, after being duly sworn, deposes as follows:

Since the Frank trial last summer, in which I gave testimony that was against Leo M. Frank, two attempts have been made either to get me to leave the city or change my testimony—the first by money, and the second by having a young man make love to me and offering to marry me.

Shortly after the trial I left home one morning to go to my work, and on a street corner a young man, who was a Jew, came up to me and said he would give me $100 and pay my board and all expenses if I would leave Atlanta, as Frank was going to get a new trial anyhow soon, he said. I refused, and turned and walked away. That's about all he had time to say to me. He had a light mustache and light, curly hair, and looked like a man about 28 years old.

The second attempt, after the money offer failed, occurred in December, during the two weeks just before Christmas. I was working then at the Clark Woodenware company, on Foundry street, having left the Stevens-Leyh Overall company because I was afraid of the foreman whom I worked under, Mr. Levin, who tried before the trial to get me to swear for Frank and not against him, so that I was afraid of him and left soon afterward.

When I left my work at the Clark Woodenware company one afternoon in December I was walking down the street with another girl when a young man, whom I afterwards found out to be Jimmy Wrenn, stepped up to us and said: "Howdy do, Miss Ferguson." I said: "I don't remember you," and he answered: "This is Mr. J. W. Howard; don't you remember when you worked at Clark's? I worked there, too, and wanted to meet you then, but didn't have a chance." And so that was the way I met him.

A night or two later he took me to the show and also met me several other times, and was always mighty nice to me, just like a young man is, you know. I hadn't known him more than two days before he began to make love to me. A few days after I met him we were walking up town together when we met a big, heavy fellow, with a big, round face, who was standing on the corner, and whom I have since found out was Mr. C. W. Burns, the detective. Jimmy Wrenn or Howard, as he called himself at that time, stopped and introduced me to him as his father. We stood on the corner and talked for several minutes. The "father" got to talking about the couple who were caught spooning on the capitol steps and from this he began to say awful things about the police, saying they were "no good," and that the city detectives were "crooks" and other such things. He said something about wanting me to make a new statement in the Frank case, and I said: "No, sir." And then, as we turned to leave, he said to Mr. Howard: "Bring her up to the office tonight. I want to talk to her myself."

That night Mr. Howard came out to the Clark Woodenware company at 5 o'clock, when I got off from work, to take me to town to see him. There were about half a dozen of us girls who did extra work until 8 o'clock a few nights for awhile before Christmas.

Jimmy was making real love to me that night—did a lot about caring for me and wanting me to marry him, but he kept on talking about wanting me to sign an affidavit about the Frank case first. I didn't want to go up to any office with him, but he insisted so strongly, and said his father was waiting for us, that he just made me go. He took me up in that big gray-colored building on Broad street—they call it the Grant building, I believe. He took me up the elevator, and there in an office his "father" was waiting for us. I remember seeing the name "C. W. Burns" on the door of the office. They asked me again

to change my statement in the Frank case and say it was some other time that Mr. Frank had refused to give me Mary Phagan pay envelope than the time I said it was. They said that Frank was an innocent man and that everybody knew it. But I said I had told nothing but the truth and wasn't going to change it, and then Jimmy said: "Well, I'd hate to be the main one to put the rope around Frank's neck," and I said I couldn't help that since I had only told the truth. Then he talked some more about losing me so much, saying he wished he'd do it for me, until I was worried a good deal and wishing I was out of there.

While we were talking about the Frank case in this way I happened to tell them that I was afraid of Jim Conley. They then dropped the talk about my evidence and fixed up an affidavit for me to sign about Conley, which I signed in order to satisfy them. I simply said in this how Conley had approached me on Saturday before Mary Phagan was killed. When I was picking up some boxes and had offered to help me, and I had dropped the boxes and run because I was afraid of him.

When we got that affidavit fixed up we left. It seemed like we had been there an awful long time. Jimmy brought me home in an automobile that night and kept on talking love to me, and just before we got home he tried to kiss me and I hit him in the mouth. That seemed to cool him down and he brought me to the door and said good-bye.

I have never seen him but once since that night. I found out a few days later that his real name was Jimmy Wren and not Howard. I found it out from a number of persons who had seen me with him and who knew all about his working at the National Pencil factory and working with the lawyers and detectives for Frank.

It was several weeks afterward before I found that his "father" was the detective, C. W. Burns. When they decided that the time had come for giving my affidavit to the papers a newspaper reporter came out to the house to see me about it. He said we took the affidavit and been given out through Burns and described him to me, and the description made it very plain that he was none other than the "father." I also learned then that the office of J. R. Porter was up in the Grant building right next to Mr. Luther Rosser's. I have found out in other ways that the "father" was Mr. Burns, many other people describing him to me very exactly. I know I could recognize Jimmy's "father" again the minute I saw him.

HELEN FERGUSON.

Sworn to and subscribed before me this 7th day of April, 1914.

(signed) L. L. HILDEBRAND,
Notary Public, Fulton County, Georgia.

The examination of Dan Lehon was the first proceeding on the program of Monday's session. Lehon was asked numerous questions regarding his operations on the Frank case, the source of his pay and of the Ragsdale incident. It was at the close of his interrogation that he came near suffering punishment for contempt of court.

Here is how the stenographer recorded his final words verbatim:

"Can I make a statement, Judge, in reference to this case?"

"Yes, you may make an explanation if you desire," answered Judge Hill.

"I am an American citizen," retorted Lehon, "and I have been in the police business for twenty years. These questions asked here are the most outrageous questions I have ever been asked—"

He was cut short by the judge, who said:

"You cannot state that. It is not admissible."

"This is the most outrageous treatment," continued the witness, "from the district attorney—"

Again he was stopped. Judge Hill saying:

"You cannot state that, Mr. Witness. I will have to send you to jail if you persist."

"I don't mean any disourtesy to the court—any disrespect to the court," said Lehon.

Lehon, in naming the source from which he obtained money, frequently mentioned the name of Herbert J. Haas, an attorney for the defense. He said that Boots Rogers was employed by the Burns agency, and that Carlton C. Tedder was also attached to the Burns forces.

He told of having paid C. C. Tedder $250 on his salary a short time previous to the Ragsdale affidavit. He said the money had been obtained from Haas, from whom he procured most of his fees. He stated that the fees and money turned over to him by Haas were in check form, and that the checks were turned over to C. B. Sears, superintendent of the Burns agency.

The retrial hearing was adjourned by Judge Hill Monday afternoon at 2 o'clock. It will be resumed this morning at 10 o'clock.

Leo Frank's "Pardon" & Crucifixion

I don't know who is guilty, but I do know that the man who murdered Mary Phagan ought to be hanged.[681]

—Leo M. Frank

Finally, though, the men who threw themselves into the scheme were motivated by neither bloodlust nor anti-Semitism. Rather, they felt obliged to accept an urgent and weighty responsibility.[682]

—Steve Oney

For sixteen months after Leo Frank's August 25, 1913, murder conviction, his legal team trekked from court to court seeking to win him a new trial.

They were buoyed by a growing international outcry impressively engineered by Albert Lasker that included a massive blitzkrieg of propaganda and letter-writing and petition campaigns. But by December of 1914, Frank's appeals had failed in every venue, rejected time after time by judges who found his trial to be fair and the verdict to be properly rendered. That's when the United States Supreme Court agreed to consider the case, and there can be no doubt that the inside connections that Frank's attorney Louis Marshall had with the high court helped secure that hearing.

Marshall prepared Frank's legal brief, which claimed that 103 errors in Judge Roan's Atlanta courtroom obligated the high court to grant Leo Frank a new trial. Marshall focused in on highly technical points of law and procedure that mirrored in its exasperating technicality Leo Frank's disastrous courtroom statement.[683] Frank's tedious and grating rehearsal of the factory's administrative minutiae—to a jury expecting to hear of his actions on the day of the murder—most assuredly contributed to an adverse verdict. And even with many months of hindsight, Marshall's brief was hundreds of pages of the same trifling details and seemed targeted more toward delay than resolution. Proof of its utter ineffectiveness in defending Leo Frank is how little of Marshall's brief is quoted by Frank's advocates in the many books and articles constituting the Leo Frank Case literature of the last century.

Remarkably, not a single one of the 103 complaints addressed any of the obvious racial injustices of the Georgia court system.[684] Marshall, who in later years would help fashion the NAACP's legal strategy, did not complain of an all-white jury —or an all-Gentile jury, for that matter—or of a Jim

Crow legal system that was so patently racist that it almost perfectly prefigured the legal structure of the coming Nazi regime.[685] None of those issues bothered the Frank legal team, even when they had the opportunity to raise them in front of the nation's highest court, in Washington, DC, far away from any Southern influence.

Though the "negro testimony" theme constituted the core of Leo Frank's public relations strategy, Louis Marshall was not foolish enough to take that unconstitutional absurdity to the high court. Rather, at the *core* of Marshall's 103-point Supreme Court argument were two main themes: (1) the trial was "mob-dominated" and (2) the insignificant technical point that the entire trial should be invalidated because Frank himself was not in the courtroom when the verdict was read.

Both the defense and the prosecution had agreed to the arrangement whereby Frank would be absent for security reasons, and Prosecutor Dorsey gave his consent only after Frank's attorneys specifically agreed that Frank's absence *would not be used as a basis for appeal*.[686] But now—a full six months after the verdict—Louis Marshall reneged on that agreement and actually claimed that *Frank's own lawyers* had violated their client's right to due process.

Marshall's brief also went after the jurors. He presented an affidavit from a dentist, named W.L. Ricker, who swore that he had heard a "bitter" A. H. Henslee say, "They are going to break that Jew's neck." One Leon Harrison swore to hearing from juror M. Johenning this highly improbable pre-trial statement:

> I believe he did kill the girl and if by any chance I get on the jury that tries him,

> I'll try my best to have him convicted….I think he is guilty and I would like to be in a position where I could help break his damned neck.[687]

Luther Rosser said of juror Henslee that "he stinks," his ballot "a miserable, dirty farce." But Dorsey claimed to have three affidavits from citizens who had heard Henslee before trial express his belief in Frank's innocence. In fact, both Henslee and Johenning were approved for the jury by Frank and his lawyers.[688]

Both jurors emphatically denied Marshall's claims. In fact, it was shown that during the jury's deliberations, it was Henslee who had insisted that the jurors take their time in bringing in a verdict. He was the only juror to vote *against* the guilty verdict when the jurors were first polled. Ultimately, once he was satisfied that the jury had not rushed to judgment, he joined the others and voted "guilty." Each of the affiants swearing to Henslee's anti-Jewish prejudice appears to be an example of defense-purchased perjured testimony.

But Marshall hung his hat on the issue of Frank's absence from the courtroom ostensibly to protect him from "a mob." He argued that it represented a violation of the "due process" clause of the 14th Amendment[689] of the U.S. Constitution,[690] which not insignificantly was ratified in 1868 to protect the Black former slaves from states' interfering with their fundamental rights as American citizens.[691] That Marshall used a constitutional provision designed to equalize the legal condition of the Black American—even as Frank based his entire public-relations strategy on the *unacceptability* of "negro testimony"—is one of the supreme hypocrisies of the Leo Frank Case.

Marshall had to resort to arguing that flimsy legal premise only because Frank's own courtroom lawyers had obliterated any claim they might make of racial prejudice—they alone having openly and repetitively voiced anti-Black racial bigotry. Marshall's ploy might be compared to a knocked-out boxer who later tries to invalidate his defeat because he was unconscious when the referee declared him the loser. The justices were similarly unimpressed.

Another of the many shameless ironies was that Frank's Jewish attorney Henry A. Alexander, who had so strenuously pressed the unacceptability of "negro testimony," cited the CALVIN V. TEXAS case on Frank's behalf. It said:

> The accused must be tried and convicted legally, and, *though he be a Negro,* he must be tried in precisely the same manner as if he were a white man. And we cannot strain the law, even in the estimate of a hair, because the appellant is a negro…[692]

"Mob Atmosphere" Debunked

On Leo Frank's behalf, Louis Marshall claimed to the highest court that his trial was

> dominated by a *mob* which was hostile to [him], and whose conduct intimidated the court and jury and unduly influenced them, and neutralized and overpowered their judicial functions…[693]

The term “mob” was carefully selected by Frank’s defense and strategically placed in both his legal filings and public relations onslaught. Its definition as “a riotous or disorderly crowd of people, or rabble” denotes danger, but is yet less *declarative* than the specific and unprovable charge of “anti-Semitism”—the charge in which pro-Frank writers have trafficked since the trial’s end. The claim of anti-Semitism never made it into any of Leo Frank’s voluminous legal filings.

Instead, Frank pushed forward individuals who claimed to have witnessed mob-like behavior in and around that Atlanta courtroom. An examination of those claims, however, finds that those supposed mobs were described in very unmoblike terms: as having variously “applauded,” “hurrahed,” “whispered,” “shouted,” and “cheered”—not terms used to characterize bloodthirsty, lynch-ready, anti-Semitic rioters. And, curiously, many of those witnesses claiming to have freely intermingled with the pogromic mobs of anti-Semites had such Jewish surnames as Hazan, Lipshitz, Boorstin, Rosinky, and Shurman.

B. S. Lipshitz says he was “mingling with the crowd”—not the “mob,” but “the crowd,” which is defined as merely “a large number of persons gathered together,” most often at sports or entertainment events. *Mingle* is defined as “to circulate among a group of people, for example, guests at a party.”[694] None of the *voluntarily* mingling “witnesses” reported being threatened, attacked, lynched, or even insulted for their Jewishness, and none were ever known to have faced any form of retaliation for signing their names to such treasonous claims, in the heart of Jim Crow Georgia.[695]

It is also difficult to imagine that a Jew, in such

an environment of "mobbish anti-Semitism," could be moved, as Frank's mother was, to curse the prosecutor in open court, calling him either a "Gentile dog" or a "Christian dog," before getting up and walking out of the courtroom and into the public street. Her outburst did not set off the kind of retaliatory pogrom one might expect against the Jewish section of the city if the dire assessments of the trial atmosphere were true. The anti-Christian Jewess reappeared in the courtroom *the next day*, unafraid and unassailed.[696] In fact, it was this Jewish woman's bigoted utterance that introduced Frank's religion into the trial.[697]

At one point during the trial, dozens of Jewish character witnesses from all over the United States descended upon the Georgia court, not one of them charging mistreatment by any Georgian Gentile, much less abuse by a "mob."[698]

Frank's own four-hour-long trial statement—which he gave without allowing the state to cross-examine him—should have induced any mob to virulent demonstration, yet the description of the courtroom by the *Atlanta Constitution* reporter tells a different story:

> A hush settled over the room throughout his recital and he was able to talk in an ordinary voice and make himself heard all over the place.[699]

With evidence of his guilt mounting, the facts badly failing him, his defense fizzling into fiasco, Leo Frank only then made his Jewishness the centerpiece of his defense,[700] and only then did the "mob dominance" claim become a last desperate hope. The U.S. Supreme Court saw no merit in any of Frank's claims and on April 9, 1915, upheld the

guilty verdict and death sentence by a vote of 7 to 2, just as the thirteen previous courts had done.[701]

Governor John M. Slaton Saves His Own Client

I have had many people to comment to me about this depraved, brutal and criminal negro whom Dorsey represented as being an ordinary innocent country darky.[702]

—Gov.
John M.
Slaton

On April 9, 1915—nearly two years after the murder of Mary Phagan—the United States Supreme Court rejected Leo Frank's last appeal. He was then scheduled to hang by the neck on June 22. He had delayed that final decision longer than anyone ever had, but it could not have come sooner for the mass of Georgians who fully believed Frank's execution would mean justice for Mary Phagan.

Frank and his attorneys, however, had a formidable ace up their sleeve. Just one day before Frank's scheduled execution, and five days before the end of his term, Georgia governor John Marshall Slaton stepped between Frank and the

hangman's noose and commuted his sentence to life imprisonment. It was a move that infuriated Georgians and ended Slaton's political career. He is cast by Frank's supporters as the cool head, the one wise and courageous truth-seeker that saw the obvious innocence of Leo Frank and acted bravely to save the life of a persecuted Jew. But Slaton had an open secret that cast serious suspicion on whether his motives were altruistic at all.

Gov. John Slaton

John Slaton was a well-connected Georgia

politician, with a lengthy résumé at the top of Georgia politics. He had held several elective offices beginning in 1896, including Speaker of the Georgia House of Representatives (1905–1909) and President of the State Senate (1909–1911), before serving two terms as governor (1911–1915).

By the time his fate was placed before the governor, the duly convicted Leo Frank had become an international cause célèbre. Thanks to an unprecedented and massive public-relations campaign initiated by Albert Lasker and Adolph Ochs, all eyes were fixed on Georgia—and every one of those eyes believed Frank to be the victim of a gross anti-Semitic injustice. Petitions from citizens and letters from celebrities and national and world leaders poured into the governor's office, all demanding that Slaton use his power to free Leo Frank. Lasker and Ochs had no such power in Georgia, however, where most citizens believed *they* were the victims of an insidious plot hatched by Frank's forces to maneuver the convict to escape justice.

Governor Slaton then called for yet another round of hearings, at which both the prosecutor Hugh Dorsey and Frank's advocates argued the case yet again.[703] Slaton reasoned that "new evidence" not available at the trial had to be considered. But the clemency hearing apparently was just for show—a mere charade. The decision to commute Leo Frank's sentence was negotiated possibly months before it occurred. For Slaton was concealing a secret that undermined the legitimacy of this unusual hearing. *Slaton was a partner in the very law firm that defended Leo Frank!* Just a few weeks after Frank's indictment in 1913, Slaton's law firm, Slaton and Phillips, merged with the firm Frank had hired—that of Luther Z. Rosser and Morris

Brandon.[704] Slaton was just about to assume the office of governor, and Georgia law prohibited a sitting governor from practicing law. So this fortuitous merger at this strangely convenient moment in time suggests that Frank's defense attorneys were planning for the eventuality that the life or death of their client may come to depend on gubernatorial intervention.

By all legal and ethical standards this brazen conflict of interest required that Slaton recuse himself from the responsibility of passing final judgment *on his own client*, especially given that his term in office was set to expire on June 26, 1915, and the messy fallout from his actions would then end up in the lap of the incoming governor, Nathaniel Harris.[705] Frank's backers believed that Harris was convinced that Frank had murdered Mary Phagan and so they pressured Slaton for immediate action before his term ended.[706] All these forces were in play when the Frank Team hurriedly moved the case through the state's pardon process and into the hands of teammate Gov. John M. Slaton.

As previously stated, Slaton is favorably portrayed by Frank partisans as a true crusader for human justice. In reality, Slaton is not known to have lifted any of his ten congressional, senatorial, or gubernatorial fingers to help the innocent Black men and women of Georgia who, all throughout his political career, were being openly tortured, burned at the stake, and hanged from trees by murderous mobs of whites. Under his watch, there were no investigations, no official inquiries, no special prosecutors, no hearings, no trials. Since the beginning of 1915 to the moment of commutation in June:

- 2 unidentified Black men and a

woman were lynched in Monticello;

- Peter Morris was lynched in Arlington;
- A.B. Culberson was lynched in Evans;
- Caesar Sheffield was lynched in Valdosta;
- Samuel Hevens was lynched in Toccoa.

When, a year earlier, Slaton was begged to stay the unjust executions of three Black men—John Paschal, Robert Hart, and Will Hart—Slaton utterly refused. Paschal had confessed to the crime and said that the Hart brothers were not involved. Slaton said that the jury had made its decision on the case, that the men had been represented by the ablest counsel in the county, and that he would not intervene—and thus all three Black men were hanged.[707] Only Leo Frank seemed to have excited Slaton's moral conscience.

On June 21, 1915, Slaton commuted Frank's death sentence to life in prison, but, tellingly, he would not sign a full pardon. Nonetheless, Georgians made no distinction: Slaton's commutation of Frank's sentence was to them a blatant capitulation to the Jewish pressure campaign, the ultimate betrayal of their judicial process.

Even those scholars who consider Frank innocent question the sequence of events that saved him. Nancy MacLean targets the "immense amounts of money and power" marshaled on Frank's behalf, and she admits that "the governor did yield to this power and override the authority of a duly

constituted jury."[708] Steve Oney states unequivocally that the Georgia Governor was justly criticized "for an undeniable conflict of interests,"[709] and Leonard Dinnerstein admits that in one sense the Georgians protesting Frank's commutation "were correct":

> [A] poor man would not likely have had friends who could finance successive judicial appeals and promote the national outcry that forced Governor Slaton to spend ten days reviewing the case.[710]

And other powers, which have now come to light, seemed to have influenced Slaton's behavior. As Georgia's chief executive officer, Slaton was believed to have sought loans for the state in the New York offices of Jacob Schiff, the influential banker of the mammoth financial firm Kuhn & Loeb, to whom Louis Marshall had appealed on Frank's behalf. The investment bank had announced a gigantic $135,000,000 loan fund to finance cotton growers in the South, 100 million coming from non-cotton growing states.[711] Schiff wrote letters seeking assistance for the condemned B'nai B'rith leader, and is said to have asked Slaton about his view of the Frank case, even implying that the state's financial future depended on his answer.[712]

In fact, correspondence dating from 1915 reveals the beginnings of an unusually warm personal relationship between the two men, in which the banker alludes to financial commitments that he made to Slaton. By January of 1916, Schiff and Slaton were arranging dinner parties between themselves and their wives; and in one handwritten letter to Schiff, Slaton expressed his "deep appreciation" for Schiff's assistance in an unstated matter.[713] This was soon followed by other letters in

which they discuss the suitable moment for Schiff to replace one law firm with Slaton's firm for work with an important client.[714] There is even correspondence between Schiff and Frank's attorney Louis Marshall in which they discuss Schiff's suggestion that Slaton be appointed to the United States Supreme Court![715]

The timing of these letters—commencing right after the Frank commutation, and all discussing ways in which the Georgia governor might enhance his financial fortunes—is no coincidence. In June of 1916, Jacob Schiff began pressing the Democratic Party to replace Pres. Woodrow Wilson's vice presidential candidate in his upcoming reelection campaign.[716] About a year earlier the *Atlanta Constitution* was trumpeting William Randolph Hearst's "PLAN TO BACK SLATON FOR THE SENATE OR VICE PRESIDENT."[717] The article attributed Slaton's emergence as the favored V.P. candidate to his action in the Leo Frank case, which, despite having ruined him politically in his home state of Georgia, the paper predicted:

> …will redound for [Slaton's] betterment and ultimately will result…in a boom of country-wide proportions for Slaton as democratic candidate for vice presidency…

All in all, the political stars—as a direct result of his commuting the death sentence of Leo M. Frank—seemed to be aligning for John Marshall Slaton.

This collection of correspondence and the choreographed political involvement of major world players like Marshall, Schiff, Hearst, and Wilson can only be interpreted as *prima facie* evidence of Slaton's reward for Leo Frank's commutation. Can it

be doubted that Slaton would have made provisions for himself and his family before committing to an act that nearly 100 percent of his constituents vehemently opposed? And can it be doubted that such provisions would have to be arranged by those wealthy and fanatical forces who *alone* would benefit from that controversial action?

Despite his bold act of defiance Slaton's commutation order itself reveals that he may not have wholly believed in Frank's innocence. Slaton wrote that he believed that the Supreme Court "found in the trial *no error of law*" and had "correctly in my judgment [found] that *there was sufficient evidence to sustain the verdict*."[718] In fact, Slaton could have pardoned the convict outright, but he instead felt that life imprisonment represented "justice," a sentence also reserved for convicted murderers.

Slaton also addressed the claim of an "anti-Semitic mob" surrounding the courtroom pressing to lynch Frank, a claim that remains one of the pillars of the Leo Frank legend: "No such attack was made and...none was contemplated." He countered that Jews were highly respected and appreciated in Georgia because they had been prominent and even "conspicuous" contributors to the history and development of the slavery-dependent Jim Crow state.[719]

As stated, Slaton justified his decision to commute—not on any flaw in the court proceeding, but on the basis of "new evidence," much of which was produced by the disgraced detective William J. Burns. Referring to the counterfeit so-called Carter letters, Slaton wrote in language almost directly lifted from the Frank Team playbook: "The evidence shows that Conley was as depraved and lecherous a negro as ever lived in Georgia."[720] Slaton's order is

further tainted by his acceptance of Frank's racial paradigm, twice stating that the murder notes were written in "a negro's handwriting" and referring to Frank's helper as "the negro Conley." Had Slaton used the term "the Jew Frank," his bigotry would have been self-evident.[721]

Slaton's order may have momentarily saved Leo Frank, but the governor and his family were run out of the Georgia, he becoming the first governor in American history to call the National Guard for his own protection.[722] It would be years later that he slinked back into town and practiced at the law firm rebranded as Rosser, Slaton, Phillips, & Hopkins.

In the end Slaton never realized the benefit he had expected and was promised. His Supreme Court appointment hopes were dashed almost as quickly as they emerged. Jacob Schiff apparently asked Louis Marshall to pursue that line, but Marshall was quick to respond to Schiff in a private letter, clearly unwilling to advocate for a man for whom he had little professional respect: "I must confess that…I am unable as a lawyer to say that he [Slaton] is the man whom I would select as a member of that exalted court."[723] Slaton was left to traffic in the same racism that upheld his unremarkable political career. In a telegram sent from his exile in San Francisco shortly after the lynching of his client Leo Frank, he wrote: "My action [commutation of Frank] protected every white farm hand and white mechanic in Georgia from the conflicting prejudice of a drunken criminal negro."[724]

Slaton continued to follow the case, bitterly hoping for some proof that his treasonous action was justified. He is found writing to Adolph Ochs in 1919, prodding him to report on the recent arrest of a Jim Conley for an alleged burglary. "Of course,"

he wrote,

> any man willing to commit burglary would commit murder….I have had many people to comment to me about this depraved, brutal and criminal negro whom Dorsey represented as being an ordinary innocent country darky.[725]

'Treating Me White': Frank's 'Semi-Idyllic Life' in Custody

He was then dressed in stripes and given the prison number 965. He will be put to work as a common field hand.

—

Atlanta Georgian, June 21, 1915

Under the laws of Georgia, all able bodied male convicts are sentenced and worked on the chain gangs of the different counties…

[726]

—Gov.
Nathaniel
E.
Harris

**[M] y life here must
be kept quiet.**

—Leo
M.
Frank
in
prison

A prison cell in the American South is no place anyone wants to be, and the prison system in Jim Crow Georgia had a particularly nasty reputation for violence and cruelty. Medieval dungeon conditions, dank and filthy overcrowded cells, vicious, sadistic jailers, ball-and-chained convicts in striped overalls, and hangman's ropes at the ready were the actual conditions faced by Georgia's overwhelmingly Black inmates.[727] The state operated its chain gangs[728] in a manner indistinguishable from actual slavery, with captives housed and transferred from work site to work site in the kind of rolling metal lattice cage used for zoo animals.[729] Georgia had pioneered the use of torture methods such as waterboarding, described in an 1870 official report thus:

> pouring a stream of water into the mouth of a convict stretched on his back; much of it got into the lungs and at best it produced a fit of choking.[730]

The ultimate purpose of this treatment was to keep Blacks terrorized, submissive, and serviceable to the dictates of white supremacy. Their incarceration had nothing to do with their supposed criminality but instead was a direct reflection of the state's labor needs.[731] Douglas Blackmon, author of *Slavery By Another Name*, is very clear on that point:

> And the truth was that in most places in the South, there was almost *no* criminal activity, almost *no* arrests, *except* at a time when one of these large industrial interests or commercial interests needed labor. And when that was the case, local sheriffs would begin these aggressive roundups...

Captured Black men in leg manacles worked on public road-building projects as state-owned slaves, under the whip of an overseer.[732] When Floyd County's Black "convicts" refused to work under these desperate conditions, they were whipped until they relented. It was reported in the newspaper not as an outrageous violation of human rights, but as proof to the readers that the authorities were effectively doing their job.[733]

If prejudice and bigotry are anywhere in the South, they are in its prison systems, and one would expect that its fiendish administrators would be overjoyed to get their hands on a convicted child murderer and suspected molester of white adolescent girls. New York lawyer Arthur Garfield Hays fancifully imagined the harrowing scene:

> [Leo Frank] was subject to constant and daily torture from the other prisoners who, whatever their crimes, detested this Northern Jew, degenerate and child

murderer.[734]

It is with that horrifying backdrop that we now examine the incarceration of Leo Frank in the state of Georgia.

Upon his indictment and while on trial, the B'nai B'rith leader was held at the Fulton County Tower jail in Atlanta, and the newspaper accounts began to describe conditions that have never before or since been applied to any form of incarceration in America.

Frank "redecorated" his cell, "seeing to it that the floors were polished, the walls scrubbed and two chairs and a table installed." Officials allowed him to accept his visitors "in the jailer's dining room on the first floor," where his friends and family brought him his "papers and delicacies."[735] Not unapprovingly, the *Atlanta Constitution* ran the headline CELL OF LEO M. FRANK NOW LIKE LIVING ROOM.

> The cell of Leo M. Frank in the Tower is fast assuming the appearance of a living room. Yesterday a new bed and a number of furnishings arrived. All the day prison attaches worked renovating the interior, oiling the floor and cleaning the windows….Heretofore they [Mrs. Frank and her husband] have accepted the use of the jailers' dining room on the first floor.[736]

A *Constitution* writer reported that Frank

> takes regular daily exercise, spends much of his time walking, and, at specified times, is granted the privileges of the

> runway alongside his cell, where he finds freer walking….What spare time he finds when not talking to visiting friends the prisoner devotes to his mail and to the newspapers, by which he keeps well posted on all important topics of the day.[737]

Frank's father-in-law brought him breakfast every day, "which usually consisted of cantaloupe, rolls and coffee,"[738] and his wife brought "*hors d'oeuvres* and fresh Georgia peaches,"[739] before he took his daily meetings with his business partners. Dinner arrived at 1:30 p.m. and his wife joined him for supper at 4. He welcomed his friends in his "parlor" most evenings, and on most days studied the issues surrounding his case. The *Atlanta Constitution* further explained:

> Frank's latest method of amusing himself in his prison cell is to solicit the autograph of every visitor. He is insistent on this point before he will see anyone, it is stated, and it is estimated that he has already accumulated hundreds upon hundreds of signatures. He is keeping a diary of each day's happenings, and faithfully sets down every detail of each hour.[740]

He "settled in to what seemed like a pleasant routine" and even carried on a card game by mail with the bridge writer for the *New York Times*. His cell was filled with letters from vacationing friends traveling in exotic locations. He exercised with a set of dumbbells and read the morning paper in his robe.[741] A reporter wrote:

> Leo Frank's cell was a mecca for visitors yesterday. Friends came to the jail in crowds, appearing as early as daybreak and as late as 10 o'clock at night….*He occupies an entire cell block* in ward 3.[742]

Frank was not even handcuffed as he was brought to and from court for his murder trial. This was so unusual that Sheriff C. Wheeler Mangum had to issue a public explanation of the practice.[743]

Jewish newspaper legend Abraham Cahan visited Frank in jail, probably expecting Frank to have been thumb-screwed in dungeon-like squalor.

> The neighboring cells—six—were empty. As I immediately realized, the Sheriff had intentionally not placed other prisoners there, *in order for Frank to feel more comfortable*, and to be able to have friends visit because the Sheriff, a man named Wheeler Mangum, was convinced that Frank was innocent and he did everything so that Frank's life in captivity would be easier.
>
> He had also permitted him to bring his own bed and bedding from home.
>
> One of the cells was larger than the others, and the Franks and their guests used it as a parlor, sitting or standing and speaking through the bars.
>
> Only Mrs. Frank was permitted by the Sheriff to go inside his cell. The rest of the visitors used to stand outside in the open "parlor." Mrs. Frank used to spend

entire days there in his cell.

> I jokingly remarked about the "seven room apartment" that Frank rented here and he laughed heartily.[744]

Thomas E. Watson revealed that Frank even "spoke of his separate room and the negro convict who had been detailed to wait on him."[745] It appears, Leo Frank, a convicted murderer, actually had a Black servant!

Immediately after his sentence was commuted by Governor Slaton on June 21st, 1915, Frank was relocated to the state's high-security Milledgeville facility,[746] where he, as Convict #965, enjoyed what could only be called spa-like comfort.[747] Modern showers and other conveniences—that were not even in the homes of most law-abiding Georgians—were provided to white inmates at Milledgeville. The surroundings, says Oney, were "actually lovely," "terraced into the rolling landscape, while tall pines lined the road."[748] *Macon (GA) Telegraph*: "Beyond a doubt, some of the people in that prison are in better living surroundings than they were before they went there."[749]

Frank had five hours of unspecified "daily chores" and the rest of the day free, one day writing sixteen letters, eighteen the next. His letters during the first few weeks at the prison farm, wrote Leonard Dinnerstein, "resemble those from a child vacationing at a summer camp." In one Frank writes:

> We get the finest Elberta peaches and watermelons here, grown on the Farm. *The apples are stewed for me*. I also sleep well.[750]

The gifts poured in to Frank's gated countryside abode: an Ingersoll watch, a shaving mirror, a box of cigars, chocolate cake, books a-plenty, a footlocker that "overflowed" with tins of crackers and sardines, packs of cigarettes and gum. According to Frank, a Mr. Alford "brought me toilet and shaving articles including bath and face towels." He received a shipment of phonograph records, which he played on the warden's own Victrola machine. He was exasperated one day, complaining, "You know I have so much mail and I like to keep things clear and orderly." Frank sat at "a big roller top desk," where he spent his days preparing his correspondence. He accepted both cash and checks at Milledgeville, and received daily deliveries of both the *Atlanta Journal* and the *New York Times*. He was even able to offer postal services to his wife back in Atlanta: "Let me know if you need some stamps, and I can send you some, so you can write to me."[751]

And there's this one he penned about his universal health care plan:

> Dear Lucille:…I am having plenty of fresh air, sunshine and exercise. I am doing no work and will do none until I am physically fit. The physician sees me every day.…I forgot to tell you to include 2 or 3 dozen handkerchiefs in the package you express me c/o Warden [J.E.] Smith….Also a couple pair of my light weight pajamas….I had five visitors to day, all prominent men from Milledgeville and all very friendly to me….One of these men sent me a sack each of oranges and lemons.…After a day or two I will speak to Warden Smith about you and my parents paying me a

visit….I am fondly your Honey.[752]

Frank appears to never have had to suffer prison food. A Mr. Wall "so kindly brings my dinner." At one lunch his menu consisted of "muffins, asparagus, and kippered herring (The last two were canned goods, and tasted very fine.)" He wrote one day that after light duties, he had settled in to a breakfast of "biscuits, eggs and buttermilk."[753]

Frank couldn't have been happier, especially after "The houseman gave me a new (cotton) mattress which is 100% better than the one of grass which I had." Whatever Milledgeville's *maître d'* couldn't provide, Frank simply requested of his wife: "I will need a soap container of enameled ware or celluloid to be sent with the other things…." And "5 sets underwear [and] 6 pair sox," but "not silk," he cautioned.[754]

Dinnerstein described Frank's prison experience as "a semi-idyllic life."[755] To his attorney Luther Rosser he wrote:

> The warden and his staff are very kind and solicitous….I have several hours a day for reading, writing or any reasonable form of exercise and diversion. The sunshine and atmosphere here are great. I have plenty of opportunity to view plant life, and my field observation in the crimino-psychological field is practically limitless…[756]

The warden is "a fine fellow," he wrote to his wife. "I know you will like him." To others he gushed: "The warden and his staff here are very kind to me. I know I shall get along nicely with

them." To his wife he wrote what no Black man could ever write from a Georgia penitentiary:

> This morning I had a talk with Judge Davidson[757] of the Commission and the Warden. They both are my friends and will do all in their power for my best interests.[758]
>
> The officials are very kind and thoughtful.[759]
>
> I think the Prison Commission will order, on request, that every courtesy be shown you and the family. Warden Smith would do this anyway, as he is every inch a true blue Southern gentleman.[760]

As for the warden, he indignantly and deceptively warded off public suspicions of Frank favoritism: "I swear that this is one place where money doesn't count, and I'll prove it to the world." Frank is not known to have spent a single moment in a striped prison outfit or in hard labor of any kind.[761]

And finally, the greatest compliment of all: Frank wrote a letter to his lawyer explaining with evident satisfaction that the "Warden and his staff *have treated me white.*"[762]

Nowhere in the annals of the history of Blacks in the American penal system—or, for that matter, in the general American population—is there a comparable experience as that enjoyed by the man who had actually been convicted of child murder, Leo Frank. And while Frank was "treated white," Blacks were treated black, black, black.[763]

In the very same Milledgeville prison that

accorded Leo Frank such lavish accommodations, 140 Blacks, including 21 boys, were crowded into one 50-by-100-foot room of a barn with no toilet facilities and no sewers. According to a report, "The feces and urine are deposited in buckets kept in the overcrowded sleeping quarters..."[764] The drinking water was contaminated by "excrement and other matter from the tuberculosis hospital." Prisoners had to share 110 bunks, and a sizable group of inmates suffered from typhoid fever.[765]

It took thirty years *after* Frank's prison stay for a court to condemn Georgia's chain gang system as "cruel and unusual punishment." And less than a decade after Frank's time in the pen, the local drugstore in Milledgeville greeted its customers with a macabre countertop display: a large alcohol-filled bottle in which was preserved the fingers and ears of two Blacks recently lynched. An inscription beside the bottle read: "What's left of the niggers that shot a white man."[766]

This astounding disparity in the treatment and living conditions of Jews and Blacks is ignored by scholars of the Leo Frank case. Frank himself understood his treatment to be extraordinary—so much so that he actually warned his wife about revealing too much about it:

> You know that a good deal of my life here, for the present, has to be guided in such a way as to allay public animosity and criticism….You will, I know, realize that the contents of my letters, and my life here must be kept quiet….Instead of fanning this matter now we want to let it lie dormant for the present, so that the Georgian people can get back to normal.[767]

Frank's sanctuary was violently disrupted on the night of July 17, 1915, when a fellow white inmate named William Creen snatched Frank from his slumber and stabbed him in the neck. Creen was rumored to have told Governor Nathaniel E. Harris that he cut Frank's throat because Frank "had tried to sodomize him."[768]

Frank's medical treatment was immediate and thorough, and while being nursed back to health he was attended to by skilled physicians. An office was made over just for the medical treatment and care of Leo Frank. The incident and his recovery were reported in great detail by the Atlanta newspapers.

Within hours the State Prison Board was proposing resolutions to investigate the negligent use of butcher knives at the prison, and a subcommittee was formed to investigate the assault. The *Atlanta Journal* published a photograph of the exterior of the prison building where the assault occurred, and another of the dormitory area itself where Frank had been confined. Governor Harris and other officials actually visited the prison themselves just to see about the condition of Leo Frank! Creen was interviewed *by the governor*, who sought the reason for his actions.[769]

According to the *American Israelite*, on his visit to see Leo Frank, Governor Harris was "shocked" by conditions at the prison and said he intended to pardon a large number of the convicts confined there. The "Governor was so deeply affected by the sights he witnessed that tears rolled down his cheeks as he talked about them."[770]

How frightening must have been the conditions for Blacks such that the leader of the state with the most lynchings could be brought to tears? The committee soon reported, "We find that it is nothing short of savagery to work these convicts

these long hot days, compelling them to sleep at night in a veritable oven, ill-smelling and beyond description." They concluded that all other inmates at the prison were being denied "humanitarian treatment."[771]

Leo Frank: The Lynching of a Guilty Man

I am as innocent
today as I was one
year ago.

—Leo
Frank

By the generally accepted definition of lynching —"Any assemblage of three or more persons which shall exercise or attempt to exercise by physical violence and without authority of law any power of correction or punishment"—Frank's murder on August 17, 1915, at the hands of his kidnappers certainly qualified. But the lynching of Leo Frank was quite dissimilar from all other known lynchings in the South. The white men who planned and carried out the act against one of their own race were not provoked by the fervor of a single moment; they were not the whiskey-soaked, thrill-seeking "white trash" or innocent bystanders swept up by mob passions. The *American Israelite*:

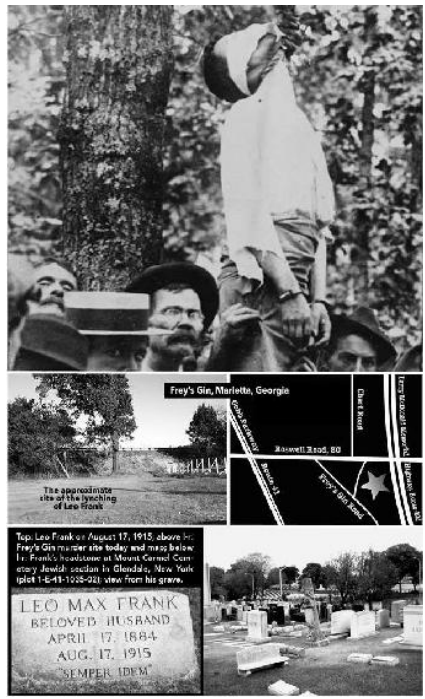
> The word mob does not seem descriptive, for these men did not display the ordinary characteristics of a mob. There

> was no outburst of rage, no disorder; the whole thing was done with order, method, and precision, and with a military attention to details. Lynching mobs are usually composed of riff-raff, but this one consisted of leading citizens in the community, then prominent in business and social circles, and even in church.[772]

Scholars who have analyzed the events surrounding the lynching of Leo Frank—the ninth lynching in Georgia that year—have settled on some basic elements of the incident. On August 17—after several weeks of military planning—twenty-five of Georgia's most prominent white leaders in eight automobiles caravanned to Milledgeville State Prison, where Frank was being held, cut the telephone lines, overpowered the guards, and snatched Frank from his prison cell. In solemn procession they drove back across the state to Mary Phagan's hometown. The men told Frank that they were there to carry out the verdict as it had been rendered and reaffirmed again and again by thirteen judicial bodies. Resigned to his fate, Frank asked that his wedding ring be returned to his wife—a request that the lynchers honored.[773] Leo Frank was then hanged from an oak tree in a section of Marietta known as Frey's Gin. A handkerchief was placed respectfully over the face of the victim, such that the body cannot even be positively identified in the photographs—something that was never done when the victim was Black.

The body of Leo Frank was removed from Georgia and interred in his family's plot at Mount Carmel Cemetery in New York, where it is today marked by a modest headstone. But his death at the hands of vigilantes on August 17, 1915, did not end

the intrigue and mystery surrounding the Frank case.


Frey's Gin, Marietta, Georgia
Dark Knight
Roswell Road, SR
The approximate site of the lynching of Leo Frank
Top: Leo Frank on August 17, 1915, above Mr. Frey's Gin murder site today and map below. Fr. Frank's headstone at Mount Carmel Cemetery Jewish section in Glendale, New York (plot 1-E-41-1035-02) view from his grave.
LEO MAX FRANK
BELOVED HUSBAND
APRIL 17, 1884
AUG. 17, 1915
"SEMPER IDEM"

Answers to Unanswered Questions

Jews have embraced the Leo Frank case as an almost sacred American metaphor for the mythic age-old struggle of the Jewish people, and scholars supporting that view have manipulated the facts of the case to reinforce that interpretation. Frank, they say, was wholly innocent of the murder of Mary Phagan and unfairly persecuted by a hostile people and system like that of Pharaoh's Egypt. His death stands as proof of the need for American Jewish unity for mutual empowerment and protection.

Just beneath the surface of that narrative of Jewish suffering is a very visible undercurrent: a not-so-subtle indictment against a specific Black man for both the murder of Mary Phagan and the "anti-Semitic" upheaval that engulfed the Jewish people of Atlanta, America, and the world. That racialized interpretation expands this Jewish tale into a commentary on the storied relationship between Blacks and Jews. For many Jews the Phagan murder was the crime of a Black man and so Blacks must be added to the ranks of the historical oppressors of the Jewish people. That construction is a highly controversial point of view, which must be interrogated from a perspective never before applied to the case.

Now that the framework of the murder, the

trial, and the lynching of Leo Frank has been presented, we must take on individual aspects of the case to discern whether the previously drawn conclusions are still valid. Leo Frank had a hearing in front of more than a dozen official judicial bodies —all of which concluded that he was legitimately found guilty. But James Conley—the Black man Frank's Jewish supporters have accused of the crime —has never had a hearing of any type. Some claim he died in 1962; others say he died in the 1970s—though no proof exists of either claim. Even so, Conley has been etched in the American Jewish consciousness as a villain next to the devil himself. Our re-examination of the Frank case will determine whether James Conley's ignominious fate as an enemy to the Jews is deserved.

In targeting the various pillars of the Leo Frank Legend, we start where the case appeared to end, with the lynching of Leo Frank at Frey's Gin in Marietta, Georgia.

The Strange Retreat of Leo Frank's Army

The lynching of Leo Frank outraged the Jewish people who had followed the case as a *cause célèbr*e, but not enough, apparently, for them to use any of their previously deployed resources to track down Frank's murderers. This determined and uniform reluctance, almost as if their intent was to protect the perpetrators, has served only to focus more attention on those responsible for Frank's demise. Let us look at what *did not* happen after Frank's lynching, and then move on to a surprising examination of those assassins who have been charged with Frank's murder, the so-called Knights

of Mary Phagan.

Leo Frank's executioners were characterized by their peers as "sober, intelligent, of established good name and character—good American citizens."[774] Their identities seem to have been well known in Georgia and included "a clergyman, two former Superior Court justices, an ex-sheriff." Yet no serious attempt was made to arrest, prosecute, or punish them, on either a local, state, or federal level. There was the initial bluster of editorials and government-offered rewards,[775] much of the outrage coming from Georgia officials that included Gov. Nathaniel E. Harris, who condemned the lynching and offered a hefty bounty for the arrest of those responsible.[776]

But Frank's international team of supporters and advocates, who had so vociferously screamed for the blood of "the negro" James Conley, made no attempt to go after Frank's *actual* killers. Oddly, the Frank family announced it "would take no active part in any attempt to apprehend and convict the members of the lynching party…" And when the state of Georgia officially concluded that the lynchers were "unknown parties," the hyper-litigious Frank team simply let it go at that. Names of the participants were emerging within minutes of the lynching, yet no prominent Jews in or outside Georgia pursued any legal action against those individuals. Fear had never caused the Jews to refrain from applying the most aggressive tactics against Frank's accusers; yet they pursued no federal or international action, engaged no detective agencies, pressed no lawsuits through any court. Remarkably, there were no retaliatory actions taken that one would expect from a people who had liberally used and abused their range of powers as never before in the cause of Leo Frank.[777]

On the day that top Gentile officials in Georgia were establishing rewards for the capture of the lynchers, Rich's Department Store, the largest Jewish-owned retailer, advertised not a reward, but slipper buckles for 39¢, Lyon's Tooth Powder for 19¢, and petticoats for $1.19.[778]

In its post-lynching issue, the *American Israelite*, the most prominent national Jewish newspaper, counseled:

> All talk of offering a reward for the conviction of the Georgia lynchers and all action in that direction except by the constituted authorities of the State of Georgia, should cease at once.

Jews, the paper wrote, were "already suffering on account of the sentimental nonsense of a lot of fool friends who are not Jews, and a lot of Jews who are fools." It strongly advised Jews "to retire to the rear and call off their friends." Rewards and the talk of rewards quickly evaporated and, despite many promising leads to the identity of the lynchers, not a penny of those rewards was ever disbursed. Small efforts were made by rank-and-file citizens to establish reward funds but all petered out for lack of leadership and interest.[779] Dr. Cyrus Adler, the chairman of the American Jewish Committee, declared that he and his organization *would not* join a group of Christians and Jews that formed to aid Georgia in the pursuit of the lynchers. Adler said that investigating the lynching was for Georgia authorities "alone."[780]

The Albert Lasker-financed detectives and agents spared no expense in buying and inventing "evidence" to free their man, without regard to the rising anger of the citizenry over those tactics.

Estimates of Lasker's contribution to the post-trial Leo Frank operation range as high as $120,000 (today's equivalent: $16 million), but nary a penny went toward tracking the kidnapper-killers of Leo M. Frank. Is there any doubt that $1,000 dropped in the middle of Marietta—where the average annual earnings in 1915 were $687 and the price of a new home was $3,200[781]—would lead to some crack in the estimated 40-man lynching team?

Frank's main attorney and the most prominent Jew in America, Louis Marshall—*who had been given the names of some of the actual murderers*—instead publicly declared that Georgia newspaperman "Tom Watson is the murderer of Leo Frank."[782] And in a statement printed in the *New York Times* on August 18th, just one day after the lynching, attorney Marshall was careful not to demand a full investigation and would only refer generally to the actual killers as a "mob of assassins." He was joined in the same *Times* article by Frank supporters who, strangely, placed more emphasis on Watson's culpability than on that of the lynchers or the state officials responsible for their apprehension.[783]

The *American Israelite* had regularly reprinted the *New York Times*'s commentary and added its own where required. But only a few days after the lynching and without a single arrest having been made, the paper titled its article "A Few Final Words in the Frank Case," and therein terminated further discussion of the issue—case closed![784]

Leo Frank's Mystery Assassins: "Knights of Mary Phagan"

It's fascinating the

way it was planned. …It was like the [Israeli] Raid on Entebbe; it was [a] very well oiled machine.

—Steve Oney

As scholars began to reconsider the case fifty years after the fact, they collectively affixed the name "Knights of Mary Phagan" to the lynchers and charged them with being the sole perpetrators of the crime. The group has been described as "a secret order whose avowed purpose was to avenge Mary Phagan's death,"[785] but their reputation for organized terrorism has grown far beyond the lynching of Leo Frank. The Knights of Mary Phagan have been credited by these same writers and scholars as being the founding members of America's notorious racial terrorists the Ku Klux Klan. The original Klan formed immediately after the Civil War but dissolved after successfully impregnating American society and government with its racial ideology. Its rebirth in the 1910s, a response to increasing Black political and economic activism, saw the new incarnation of the Klan grow to a reputed membership of over five million.

Obviously, the birth of the most violent racial terrorists in American history is no less significant to Blacks than the founding of German Nazism is to Jews. But anyone attempting to track the history of the so-called Knights of Mary Phagan will find that the group has almost no verifiable record of

existence at all. No newspaper articles chronicle its activities, no organizational records plot its development, no law enforcement or intelligence agencies log its movements—no private correspondence or local memoirs make reference to this mysterious group said to be the progenitors of American racial terrorism.

The strange career of the Knights of Mary Phagan begins not in Georgia, but 900 miles away in New York City. The first and only mention of this alleged team of assassins is found in a brief reference in the very newspaper now conceded to have been an avowed member of the Leo Frank defense team.[786] The *New York Times* under Adolph Ochs handled the post-trial propaganda for the Frank Team, and in its June 26, 1915, issue, seven weeks before the August 17th lynching, an anonymously written "special" article, titled "VIOLENCE FEARED IN ATLANTA TODAY," purports to describe the reaction of Georgians to their governor's June 21st commutation of Frank's death sentence. It reports that "authorities [are] apprehensive" because of "the number of secret mass meetings" held in several towns. The last paragraph of the article identifies Frank's *future* assassins:

> One of the strangest of these meetings is reported to have been held at Marietta, where Mary Phagan is buried. One hundred and fifty citizens are said to have met at Mary Phagan's grave and formed an oath-bound organization to avenge her death. This body is to be known as the "Knights of Mary Phagan," and it is the purpose of the organizers to form lodges over Georgia, the members being pledged never to rest until the

> murder of the girl has been avenged. There seems to be little doubt that such a body has been formed.

The text here reports on a "mass meeting" that was known to and attended by the "masses" in Marietta, Georgia, but that somehow escaped the notice of the three Atlanta-based dailies just twenty miles away, which had been mercilessly competing to break *any* news of the Leo Frank case. No source is given for the *New York Times*'s scoop and not even the weekly *Marietta Journal* mentioned any of the alleged activity.

The *American Israelite* ran a curious contribution to the *Times*'s lone "Knights" claim. It is notable not only for its premonition of events to come but also for its familial links to the *New York Times*. Adolph Ochs was married to Effie Wise, whose father, Isaac Mayer Wise, founded the *Israelite* and whose brother then ran it. Leo Wise added to the intrigue in his July 22 issue:

> Two weeks ago the *Israelite* stated with confidence that "The attempt to revive the Ku Klux Klan in Georgia did not meet with any noticeable success," but the confidence was not well placed for, by all accounts, some such outlaw organization having for its purpose the lynching of Frank has been established.
>
> This information comes from Atlanta by way of a special dispatch to the *New York Times* and is trustworthy where an Associated Press dispatch could not be accepted because the representatives of the latter have been under the same intimidating influences which were in

> evidence from the moment Frank was charged with the murder of Mary Phagan.

The *Israelite* did not name this group, but instead linked "some such outlaw organization" to the Ku Klux Klan. Speaking to its international Jewish readership, the *Israelite* editor insisted that the only legitimate source for future news of the Leo Frank case would be the paper of his brother-in-law, Ochs's *New York Times*.[787]

Despite the worldwide coverage and the multitude of published verbiage on the case at that time, the sparse and fleeting mention—in a newspaper that served as Frank's public-relations arm—is the *only* reference to the alleged "secret meetings" or to the existence of the Knights of Mary Phagan. And though the group is forecasted "to form lodges over Georgia," there is no further evidence of such activity in any form.

Such was the public's outrage over Slaton's action in Georgia that the local papers would have gladly aided with publicity any attempts to set up lodges for the purpose of avenging the death of Mary Phagan. The "Knights" would have sought such publicity, not shunned it, and just about every white man would have proudly joined. The idea that there was some power in Georgia from which the group needed to hide is without merit. The only photographs of Frank's lynching show white Georgians standing proudly next to the body, some straining to be included in the picture.

Nevertheless, even after the actual lynching of Leo Frank on August 17th, the moniker Knights of Mary Phagan is not mentioned or reported in any of the worldwide newspaper coverage. Similarly, the literature and scholarship addressing the prodigious

rise of the Ku Klux Klan in that era are devoid of any mention of the group, even though it is claimed by many to be the Klan's parent organization. The reappearance of the so-called Knights of Mary Phagan in print would not occur for nearly half a century, when a new layer of intrigue was added to the Frank case.

In 1965, the popular Jewish writer Harry Golden pulled the *New York Times*'s Knights from obscurity when he authored a book on the Frank case, *A Little Girl Is Dead*, wherein—for the first time—the Knights are directly credited with Frank's murder.[788] Golden was a beloved white liberal, well-known in civil rights circles, who at the time was the publisher of the Southern Jewish newspaper *Carolina Israelite*. He was as clear as an editor could be about his claim:

> The name, Knights of Mary Phagan, first appeared in the *Jeffersonian*, in the issue of June 24[, 1915,] the issue that condemned Slaton's commutation. Tom Watson in each issue thereafter professed to see the great "Invisible Power" of these Knights.

Golden offers researchers a specific issue of Watson's local Georgia newspaper to confirm his account of the birth of the Knights of Mary Phagan. One should recall that Watson's vitriolic advocacy for Leo Frank's execution made him for many the voice of Georgia justice. He repudiated Governor Slaton for commuting Frank's death sentence and he later cheered the lynching and the lynchers, who he believed had carried out a legal ruling of the Georgia courts. And it is for that cheerleading role that Watson was blamed by Frank's own legal team for the crime. So Golden's mention of Tom Watson

and his *Jeffersonian* newspaper as the source of the term "Knights of Mary Phagan" appears plausible.

It is strange, then, that the June 24, 1915, issue of the *Jeffersonian* has no such reference to the Knights at all. Nor is the group mentioned in any subsequent (or previous) issue of the weekly paper, the last issue being printed in 1917. His other publication, a monthly titled *Watson's Magazine,* dealt with the Leo Frank case extensively, and it is likewise devoid of any mention of the Knights.

Harry Golden's private notes, made during the preparation of his book *A Little Girl Is Dead,* shed light on his thought process. On the specific issue of the Knights, his draft version of the book refers to the September 9, 1915, issue of the *Jeffersonian*.[789] Yet again, a careful review of *that* issue contradicts Golden, and shows that Watson proudly refers to the lynchers as the "Cobb County Vigilantes," and then later as "the Vigilantes,"[790] *not* as the "Knights of Mary Phagan." Clearly, Watson would have been the first to join such an organization, and to report on its noble activities, yet he knew nothing of the phantom group. Tom Watson and his publications are not the source of the Knights of Mary Phagan, and it is a mystery why Golden consciously conferred upon Watson fatherhood of the enigmatic group.

In 1968, Leonard Dinnerstein followed on the heels of Golden in his own book on the subject, *The Leo Frank Case*, and he likewise claimed that Frank's lynchers were these "Knights of Mary Phagan," and further credited them with originating the Ku Klux Klan. But his source for that fantastic assertion is none other than Harry Golden and his flawed book *A Little Girl Is Dead* (p. 300). Clearly uncomfortable with Golden's claims about the Knights, Dinnerstein wrote in a footnote:

> I questioned Golden about the source for this information. He replied that he had heard it said and then had it confirmed in an interview with one of the lynchers and a son of this lyncher.[791]

Steve Oney also promotes the "Knights" in his 2003 book, *And the Dead Shall Rise*, and cites only the same dubious *New York Times* article. He also takes unsupportable liberties when he adds, but provides no citation for, his claim that "several of the so-called Knights of Mary Phagan were present" before the Prison Commission to argue against the commutation of Leo Frank's death sentence.[792] Golden died in 1981, but the 2007 edition of the *Encyclopaedia Judaica* carries his embellishment of the Knights fable:

> Watson helped found the "Knights of Mary Phagan," an antisemitic society which sought to organize a boycott of Jewish stores and businesses throughout Georgia.[793]

Oney joins Golden and Dinnerstein, who have stitched the Knights tale together from a wispy assortment of unidentified, unnamed, undocumented innuendoes, rumors, and flights of imagination. After consulting the authors of the three standard books on the Leo Frank case, we find that the mystery of the origin of the "Knights of Mary Phagan" only deepens.

Leo Frank Legend Infects Black History

The "evidence" of any so-called Knights of Mary Phagan can at best be described as tissue-thin, leaving no other paper trail than that which leads right back to the Leo Frank defense team. The mysterious group yet found its way into the voluminous literature on the notorious domestic terrorist organization, the Ku Klux Klan.

The KKK earned its reputation for violent racial terrorism during the Reconstruction period following the Civil War. The Klan's role was simple: to do all in its power to force the freed slaves back into the critical roles they had held in slavery on the plantations, which were the engines of America's cotton economy. Without the vital labor of the African, forcibly extracted, the entire American economy would have collapsed.

America embraced the new race enforcers as true patriots, preservers of a way of life that refused to die. By 1877, the Ku Kluxers had achieved their goal of locking white supremacy in the very foundation of every American institution, and the hoods, robes, and ropes were retired.

A growing white nostalgia for the darkest days of slavery and an escalation in militancy among Blacks created the climate for the Klan's reemergence in the 1910s. William J. Simmons revived the secret order in a 1915 ceremony atop Stone Mountain in Georgia and led it to its largest growth in its history, with an increase in membership to an estimated five million. Simmons himself reverentially describes the beginnings of his new Ku Klux Klan in his book *The Klan Unmasked*, yet he makes no mention of Leo Frank, Mary Phagan, or her "Knights."[794]

Even so, a cunning new version of the KKK's rebirth began appearing in scholarly literature that brazenly altered Simmons' founding narrative. From Leonard Dinnerstein's book about the Frank case:

> Had it not been for Leo Frank, Simmons would probably have had to wait before launching his venture. But he found in the Knights of Mary Phagan, already organized but with its sense of purpose vanished, a suitable nucleus for the new Klan. In the autumn of 1915 Simmons and thirty-three of the Knights of Mary Phagan met on a mountain top just outside Atlanta and brought the Klan into being with elaborate ritual.[795]

It should be troubling that the ideological godfathers of American racial terrorism—Thomas Watson and William Simmons—had no apparent knowledge of the Knights of Mary Phagan. Yet several books and articles rely on Dinnerstein's authority to locate the phantom group at the very root of the Ku Klux Klan. This extraordinary re-interpretation—that removes Blacks as the prime target of racial terrorism and replaces them with the Jewish people—is no minor feat, and it gives the Ku Klux Klan an entirely new *raison d'*être.

This is all the more incredible because beyond the murder of Leo Frank Jews have no American history of violent aggression against them; nor were they ever targeted by the Ku Klux Klan. Yet through the "saga of Leo Frank" Jews have been able to insert themselves into every analysis of America's long history of domestic racial terrorism, whilst the 4,000 Black unnamed and largely forgotten lynching and terror victims are moved to the remote rear.[796] As the veritable pillars of the

industrial and agricultural South, Jews were far more often found using their substantial power in support of the Klan's anti-Black activities.[797]

But Dinnerstein's boorish rebranding and repurposing of the Klan have no basis in the group's fundamental teachings, which are actually quite respectful of Jews. In fact, William J. Simmons dedicates an entire chapter of his book to *refuting* the charge that the new Klan is "anti-Semitic," and in his entire book his only references to Jews are overwhelmingly positive. For example:

> They [the orthodox Jews] have a right to be proud in view of all their history. The Hebrew literature, the Hebrew religion, the Hebrew commonwealth, and more than all, the Hebrew jurisprudence, much of which has been adopted by our western society, entitles the race to hold to its distinctive qualities and characteristics with a pride that all the world respects and admires.[798]

In that same publication, Simmons unreservedly spewed the anti-Black racism for which the terrorist group is widely known. It was a bigoted, anti-Black philosophy, which the KKK actually shared with Leo Frank and his top supporters, whose loud and continual insistence that "negro testimony" convicted Frank of the "negro crime" of murder was a sophisticated leap beyond even Mr. Simmons' white supremacist agenda. Moreover, while Simmons actually capitalized the word "Negro" in his 1923 book, Frank's most ardent defender, Adolph Ochs, the Jewish publisher of the *New York Times*, utterly refused to capitalize "negro" in his paper for *seven more years*. When the paper finally decided to make the "n-word" an "N-word," the

editors arrogantly wrote that it was "in recognition of racial self-respect."[799]

Jewish Hollywood Re-Invents the Ku Klux Klan

The driving force behind the reconstituted Ku Klux Klan had nothing to do with Leo Frank or his victim, Mary Phagan. More than any single factor, it was the 1915 release of D.W. Griffith's silent movie epic *The Birth of a Nation*—and the massive waves of white supremacy generated by the film's bitter racial nostalgia—that fueled the rise of the Ku Klux Klan.[800]

The movie adaptation of the Rev. Thomas Dixon's book titled *The Clansman* was America's first movie blockbuster, and it effectively presented the Klan's racial philosophy as righteous, inspirational, and as American as apple pie. Using revolutionary techniques in cinematography, the film captivated the white American imagination and transformed the Klan's trail of hate crimes into a heroic heritage, all sold—in one viewing—to a massive international audience.

The Southern Poverty Law Center's 1991 publication *Ku Klux Klan: A History of Racism and Violence* accurately describes the significance of *The Birth of a Nation*:

> So powerful was the impact of the movie in 1915 that it is often credited with setting the stage for the Klan revival that same year. In fact, the man who actually created the 20th century Klan…used the publicity surrounding it to win recruits to his organization….*Birth of a Nation* is so

> blatantly racist that it is rarely shown in public theaters today….The racial hatred exhibited in the movie, once acceptable, is now abhorrent to all but the Klan and the most extreme bigots.[801]

No provable link exists between the Leo Frank Case and the Ku Klux Klan, but Jews *were* deeply involved in the original group's founding, growth, and development.[802]

Most Black Americans would be shocked to learn that it was Jewish investors who financed the production[803] of what the SPLC argues was the most racist movie ever made—a movie that glorifies anti-Black violence and deifies the Ku Klux Klan. The Jewish businessmen could not have been deceived by the movie's noted director D.W. Griffith because they invested when the working title was *The Clansman*. Indeed, the *Pittsburgh Jewish Criterion* extolled the "great" film in its October 1, 1915, edition (p. 18). And why wouldn't they? Like so many notable Southerners, Thomas Dixon was a violently anti-Black racist *and* an effusively admiring Judeophile. He considered the Jews "the greatest race of people God has ever created."[804] No parallel existed for the film and the publicity that attended it—until Adolf Hitler's propaganda ministry began in Nazi Germany a generation later. Jewish promoters greatly enhanced *The Birth of a Nation*'s distribution worldwide, and the greatest of the Hollywood movie studios, Metro Goldwyn Mayer (MGM), was started by the famous Jewish mogul Louis B. Mayer with the profits he earned from distributing the film on the east coast.

The movie opened in Atlanta on December 6, 1915, less than four months after Leo Frank's lynching, to rave reviews and general excitement.

And most of that excitement was had by the owners of the Atlanta Theater, two Jews, Marcus Klaw and Abraham L. Erlanger, who held a virtual monopoly of theaters in the South. They made a record $27,000 on the Atlanta showing of *The Birth of a Nation* ($650,000 today), the most ever in any Southern theater. It is they—not the phantom Knights of Mary Phagan—who staged the hate extravaganza requiring a crew of fifty men, including a full symphony orchestra.[805] Thus 80,000 Georgians saw the most effective Ku Klux Klan recruitment film because Jewish businessmen made it possible.[806]

The Jewish theatre owners brought the movie back the next year, and at the opening 1,000 Klan admirers had to be turned away. They even cut the admission price in half so that local Atlanta school children could attend.[807] And though Klaw and Erlanger were based in New York, prominent Jews in Atlanta assisted in the success of the engagement. The Jewish managing editor of the *Atlanta Constitution*, Jacob Gortatowsky, ran many stories trumpeting the film's arrival, including a giant 2-page spread with a montage of all the glowing reviews by other newspapers.[808]

Accompanying this collection of white newspaper movie reviews were large advertisements by Rich's, Regenstein's, and Myers & Miller stores, all displayed prominently next to a story about the local KKK meeting—on the *Constitution*'s society page.[809] Rothschild's shoes and L.C. Adler's ties were advertised right below an article titled "Birth of a Nation Thrills Tremendous Atlanta Audience."[810] The *Atlanta Journal* advertised the film on the same page that it announced the 18 newly elected officers of the Jewish Progressive Club, just a few months after Leo Frank's

lynching.[811] Leo Frank frequented the Jewish-owned Jacobs' Pharmacy, where on the day of the murder, he claimed, he bought his wife a box of candy (*Brief*, 245). In the *Atlanta Constitution* on November 7, 1915, Joseph Jacobs advertised the novel his pharmacy was selling: *The Birth of a Nation,* by Thomas Dixon.[812]

Ironically, the Jewish-produced film *The Birth of a Nation* provided the motive and the inspiration for the 1915 rebirth of the Ku Klux Klan. Neither Leo Frank nor Mary Phagan had any provable connection or link to the history of that terrorist group. And the phantom group Knights of Mary Phagan remains a historical anomaly, having no provable connection to anything except the *New York Times*.

So Who Lynched Leo Frank?

Nearly a century after the crime was committed, we find a few noteworthy attempts to identify the lynchers of Leo Frank. But they all rely exclusively on a mix of rumor, innuendo, and local folklore. Some have even categorized the alleged participants by the various roles they reportedly played in the murder as either "leaders and planners," "field commanders," or "foot soldiers," yet none of those named have in any way admitted their involvement. And of those researchers none refer to the lynchers as the "Knights of Mary Phagan."[813]

By any objective analysis the "Knights of Mary Phagan" is as fraudulent a concoction and as fantastically false as the claim that Frank's 1913 trial was "mob dominated" and filled with cries of

“Kill the Jew.” Neither existed in its time, yet both assertions, though baseless, are now securely ensconced in the Leo Frank Legend. And both fabrications have elevated the Leo Frank affair to central places in the narratives of *Black* history. But this still leaves scholars with a critical but unanswered question: Who really killed Leo Frank?

How was the *New York Times* able to invent a group and announce its role as Frank’s executioner a full two months before the actual lynching? Did the *New York Times*, which was described by Steve Oney as a full-fledged member of the Leo Frank defense team, know more about the planned murder of Leo Frank than is generally believed or recognized?

As with any conspiracy investigation, one must first ask, Who benefitted? And here is where those who have pressed a myriad of Leo Frank mythologies into the American consciousness get a rude awakening.

In 1915, two years after his conviction for murder, Leo Frank was an entirely different person in the public’s perception from the man he was in reality. The master propagandists at the helm of his massive international public-relations campaign—the Chicago-based advertising magnate Albert Lasker and *New York Times* publisher Adolph Ochs—had transformed Frank from an unappealing, child-exploiting sexual strangler into a persecuted messianic figure, the innocent victim of an anti-Semitic juggernaut, stoically preparing to die for the sins of the South. Through the duo’s adroit manipulation of the world’s willing press, this superhuman image of Leo Frank as a persecuted Jew was easily perpetuated—as long as he was locked away in Milledgeville Penitentiary and inaccessible to those who had earnestly adopted his

cause.

But if Frank were released or given free access to the press and the public, there was serious and justifiable doubt about whether he would ever be able to live up to that concocted public image. And that vexed his Jewish supporters. Many if not most had joined the cause to fight for the good name of Judaism and of B'nai B'rith through their symbolic stand with Leo Frank, a man whose private life represented neither very well. The battle had also rallied the Jews of America to a once-elusive cultural oneness. But the movement Frank had birthed had achieved a symbolic status that conflicted with Frank's flawed character and abrasive personality.

We must remember that Albert Lasker, upon meeting Frank *for the first time,* had a viscerally negative reaction to him:

> It was very hard for us to be fair to him, he [Frank] impressed us as a sexual pervert. Now, he may not have been—or rather a homeosexual [sic] or something like that…[814]

According to Lasker's biographer, the men with him during that encounter took "a violent dislike to him [Frank]." Lasker "hated him," and said, "I hope he [Frank] gets out…and when he gets out I hope he slips on a banana peel and breaks his neck."[815]

Another high-profile Jewish supporter, Sears magnate Julius Rosenwald, selflessly gave $10,000 to Frank's defense, but was agitated at Frank's impersonal thank-you note and made it known to others in private correspondence.[816]

The Jews orchestrating Frank's PR campaign

clearly saw the bigger problem they had created in their single-minded pursuit of Frank's vindication. To turn such a man over to public inspection—even if his supporters believed him to be innocent—was fraught with danger and lethal to their cause. And if Frank's defenders had accepted that he was indeed the murderer, they certainly could see no value in a living witness to the realities of what had occurred on April 26th, 1913, the day of Mary Phagan's demise. As a group, Jewish leaders had made the calculated decision to hold their noses at the particulars of the murder and fight to clear the name of Jews by incidentally clearing Leo Frank of the crime.

Their success at achieving the commutation, however, proved to be a double-edged sword. The artificial image of victimization that Lasker had created would very likely collapse if Leo Frank were released; and his release from his term of life imprisonment was imminent. The prisoner himself was under the clear impression that as soon as the post-commutation hysteria died down, he would be quietly returned to New York as a free man. B'nai B'rith attorneys Dale M. Schwartz and Charles F. Wittenstein handled the attempts in the 1980s to have Frank pardoned by the state of Georgia.[817] Schwartz revealed in an interview that

> The game plan, so to speak, was to commute Frank's sentence to life imprisonment, and when the heat was off and people cooled down in a few months, they were probably going to pardon him and let him out of jail altogether.[818]

No one probably feared this more than Frank's closest friends and supporters. In fact, as the public's interest grew, requests flooded in for

interviews with Frank, but his attorney Herbert Haas was described by Steve Oney as "dead set against further public comment, fearing that more attention would only increase animosities."[819]

The fact is both the friends and the enemies of Leo Frank would gain from his elimination. Georgians that had followed the trial were as unanimous as the jury in their belief in Frank's guilt for both murder and the far uglier unofficial charges of "perversion," rape, and pedophilia. The few of Georgia's politicians and elites that had aligned with Governor Slaton in commuting Frank's death sentence publicly spouted the proper political platitudes. But after they watched their governor and his family be forced into out-of-state exile whilst the prisoner enjoyed a leisure life of country air and Elberta peaches, Georgia's high and mighty really saw no value in a living Leo, who would continue to create deep political division as long as he remained at Milledgeville prison.

Similarly, incoming governor Nathaniel E. Harris rushed to the side of Leo M. Frank when the prisoner's throat was cut by a fellow inmate, and he recalled:

> While the doctor was washing the wound Frank coughed, and I asked the doctor immediately, with a good deal of sympathy in my voice: "Won't that wound attack his lungs before it heals?" When I asked this, Frank laughed a queer sort of laugh; a laugh that showed, at least to me, a hard, careless heart, and the doubt, which I had about his guilt, was lessened greatly as I heard the laugh and looked into his face. I could not help the impression. Looking back on it now I

> do not see why I should have been impressed, but I felt then that the man was undoubtedly a hardened criminal or a reckless prisoner.[820]

Frank's image was far more attractive in the hands of experts like master marketer Albert Lasker than in Frank's own hands. Ochs's assessment of Frank's personality mirrored that of Lasker and Harris. Assistant editor at the *Times* Garet Garrett kept a diary in which he revealed:

> I'm sure at last it was a relief to [Mr. Ochs] to have [Frank] lynched and out of the way….I have felt for some time that he secretly despised Frank.[821]

Clearly, if Frank were actually released into the sympathetic arms of the public, his own repellant personality would reveal the very opposite of Jewish victimhood. The presumption of innocence would have vanished and the massive campaign to free him would be exposed for what it actually was—namely, a flexing of Jewish power and a demonstration of might that would have reinforced every stereotype of the powerful Jewish banker and the debauched Jewish corrupter. Certainly, Tom Watson would have had a field day with that argument. And if Frank—the "careless," "queer," "despised," and "hated" "sexual pervert"—were released from prison with Mary Phagan's murder unavenged, the Jews of the South for the first time might have found themselves in actual physical danger.

Frank's teetering on the brink of death served only to inflame his ego, whereby he had actually come to believe his own press. Oney had to admit that "the sight of his name in print mesmerized

him," and he also quoted Ochs: "Frank would feel cheated if he did not have a chance to make a speech from the scaffold." And, as shown in his ultra-rehearsed, but disastrous, trial statement, his own open mouth made him his own open enemy. Frank's own lawyers admonished him about it. Herbert Haas wrote to him: "Let me caution you against giving out interviews….A friend of ours advised us today that interviews from you were appearing in Northern and Eastern papers…I think you should not do this."[822]

New Trial? New Trouble

Prosecutor Hugh Dorsey had promised that if the high court ever granted Frank the new trial he asked for, he would prosecute the case to the fullest extent. But this time around, it would be with the world watching very carefully. A new judge, jury, and prosecutor with the same physical evidence would probably proceed in much the same way as the first trial. Every court that reviewed the month-long trial found it to have been conducted fairly, and with all eyes on a second trial Georgia would be on its best judicial behavior. And just like the first, the second would not have gone well for Leo Frank; he probably would have fared much, much worse.

This time Frank's attorneys would have to show the "negro testimony" far more respect. Their blatantly racist strategy would have to be retired. The Northern press, which had taken up Frank's cause as a victim of anti-Jewish racial prejudice, could not very well ignore the anti-Black bigotry coming from Frank's own side. Black newspapers and advocacy groups outside Georgia were monitoring the treatment of the Blacks in the case with a jaundiced eye. In any new trial those Blacks with significant testimony, like James Conley and Newt Lee, would actually have competent attorneys not only representing them and their interests but also ensuring that the Frank team's open and abusive race-baiting—a cornerstone of their defense—was severely muzzled.

William Burns's bungling on Frank's behalf only added many more felonies to the docket. As Lasker

later admitted, "[B]y God, [Burns] put in" much "perjured stuff…before we finished."[823] Should the defense try to introduce *any* of Burns's "perjured stuff," it would have been an invitation for the prosecution to air all of Burns's felonies. Certainly, his illegal methods and activities were a matter of public record, so the prosecutors would not even need to wait for a trial to have it all fed to the gathered hoards of international newsmen.

It was more likely—not less—that a new Georgia judge would allow the young female factory workers to be more explicit about Frank's offensive behavior; thus, the more detailed revelations would have a far more damaging effect on Frank's case. The second time around would be disastrous, if Frank's lawyers again refused to cross-examine them or challenge their accounts. In fact, by the end of the first trial Frank's attorneys conceded in open court the truth of the factory employees' charges. And there was no telling how many more girls and young women might be emboldened to come forward on an international stage. And, of course, they did not need a courtroom to air their negative experiences with Frank.

Dorsey had already threatened to unleash "a mass of" Leo Frank's dark secrets.[824] And the two hired detective firms—the Burns Agency and the Pinkertons—were now estranged from Frank and could easily be called to testify about their intimate knowledge of the investigation. Again, this unfiltered and unstoppable flow of sludge would potentially reach a massive international audience preconditioned by Ochs and Lasker to hear of nothing but Frank's innocence, sacrifice, and suffering—and not his management of a factory filled with child laborers working ten-hour days

under the constant threat and reality of sexual harassment.[825]

And at any new trial, and with the outside world watching, it would be almost impossible for Frank himself to avoid cross-examination by the prosecution, as he did at his first trial. His millions of new minions had been led to believe that his voice had been drowned out by anti-Semitism, so it would have been impossible for him to avoid a direct and sworn interrogation.

This time the three Atlanta daily newspapers would be competing with hundreds of others from all over America and around the world. Soon their articles and editorials would ask the same *legitimate* questions that emerged during and after the first trial—about the planted evidence, including Newt Lee's bloody shirt and changed timecard, and about Minola McKnight's and Nina Formby's revealing affidavits. And now, thanks to the William J. Burns fiasco, the prosecutors would have the forged Carter and Roan letters, the open bribery, the poison plot against Conley, and Slaton's incredible conflict of interests—all would become known and all would tend to point inescapably to Frank's guilt.

Certainly, as the details of the Burns operation emerged, so would it be revealed who orchestrated and paid for it all. The reputations of Ochs and his *New York Times*, the prestige of Louis Marshall and the American Jewish Committee, the stature of B'nai B'rith and its brand-new Anti-Defamation League, the eminence of notable supporters like behind-the-scenes financier Albert Lasker, Rabbi David Marx, philanthropist Julius Rosenwald, and banker Jacob Schiff—all of whom had bought into or helped generate the noble Frank narrative—would all be scrutinized in any new trial and its accompanying publicity. They had not just

supported Leo Frank; their scorched-earth extralegal tactics had backfired and instead infuriated white Georgians—not to mention Blacks across America. Nearly all institutions of the government, the judiciary, and the press had succumbed to the cash tsunami precipitated by Lasker's corrupt generosity.

The crusading Tom Watson and his weekly *Jeffersonian* were absent from the first trial, but he would have worldwide exposure in a second. And this time Watson would no doubt be considered the only legitimate voice of the people of Georgia, and neither Frank nor his attorneys were a match for him. Watson had successfully cast the attack on his state of Georgia as a *Jewish* attack. And by the summer of 1915, Watson and the Jewish publications of the North were in a ferocious battle that threatened to morph into a real Jewish–Gentile confrontation of the European variety. Watson showed no signs of caving in to the intense Jewish pressure, and with his every salvo his popularity among Georgians soared. He would be champing at the bit for such an opportunity.

For the relatively tiny Jewish population in Georgia—a state that had always welcomed them—it was uncharted territory. It was a battle the Jewish people could not possibly win and would be foolish to engage in. The unpleasant truth is that there was no scenario the Jewish world could conceive of in which Frank or his carefully crafted image of Jewish persecution could prevail. The convict himself resorted to this unseemly attempt to engineer his own victimhood, with its rank insensitivity to the way in which Mary Phagan perished: "Orderly trial by a jury is one thing, the rank disorder of a lynch-crazy mob is another…. [B]ut I am confident that the truth *cannot be strangled to death*."[826]

When it comes right down to it, whoever murdered Leo Frank had many supporters, allies, and cheerleaders, from a surprising cross-section of America. The Jewish community's refusal to press for the apprehension, or even the investigation, of the lynchers raises strong suspicions about their real identity. The day after Frank's murder the *New York Times* reported: "Mrs. Leo Frank received the news that her husband had been lynched in a manner that led those present to believe that *she had been expecting it.*"[827] And perhaps she had.

Could it be that the "Knights of Mary Phagan" was invented out of whole cloth and then planted by the *New York Times* two months before Frank's demise in order that a Gentile group be set up and made responsible for a *future* crime? The same nefarious forces that planted "anti-Semitism" in the trial and planted Newt Lee's "bloody shirt"—among all the other "perjured stuff" admitted to by Lasker—were Frank's likely executioners. Indeed, if Adolph Ochs and the *New York Times* 900 miles away claimed to know of a murder plot against their new sacred symbol of "anti-Semitism," they certainly did nothing to stop it, or to enhance Frank's security, or to alert authorities responsible for his protection. The alleged Knights encountered almost no resistance to their operation to abduct the most important prisoner in the world. Steve Oney is considered by many to be the foremost expert on the Leo Frank case, as his research and thesis are accepted by the ADL and other interested pro-Frank Jewish organizations. As he reflected on the lynching, he made an incredible correlation that carries far more weight than he probably intended:

> It's fascinating the way it was planned, the way that seven or eight leading citizens of Marietta put it together and

> delegated authority down the line and chose a group of lieutenants who actually ran the lynch party. The lieutenants chose the 20 or 30 guys who served as muscle. It was like the Raid on Entebbe; it was [a] very well oiled machine.[828]

Operation Entebbe was a hostage-rescue mission performed by commandos of the Israeli Defense Force (IDF) at Entebbe Airport in Uganda on July 4, 1976. Oney's reference to it is chillingly appropriate.

Leo Frank as a Jewish *symbol* could never exist in the same space and time with Leo Frank the flawed and repulsive Jewish *man*. And so the man became as expendable to Jewish elites as he was to Georgian Gentiles—maybe even more so.

That bleak outlook called into play a little-known option that is afforded to Jews in such a predicament. In Hebrew it is called *din moser* ("law of the informer") and *din rodef* ("law of the pursuer"), and they are concepts found in the Babylonian Talmud (Tractate Sanhedrin, folio 73a). These are literally contract killings ordered by Jewish authorities against a Jew that is thought to have betrayed or will betray Jewish interests. The Leo Frank case had now involved the highest Jewish authorities in America and put their reputations and their constituencies in league with a truly rogue character who had outlived his symbolic value. The launch of Leo Frank was spectacular but a crash and burn was imminent, and the consequences would be disastrous for the Jewish people. And even though Leo Frank, as president of B'nai B'rith, cannot be said to have deliberately betrayed the Jewish people, his malfeasance had maneuvered them into a

compromised position. The *din rodef* (law of the traitor) thus became an attractive option. According to the rabbinical authorities, Frank might have been considered a *rodef*—one who has placed Jews in harm's way—and when that occurs, an individual or community is permitted to stop a *rodef* by any means necessary.

In more recent times scholars have now acknowledged that the 1995 assassination of Israeli Prime Minister Yitzhak Rabin was just such a *din rodef* contract murder, ordered by a special court of Israeli rabbis. By conceding to the Palestinians land that many Jews believed was conferred to them by God Himself (in Genesis 15:17), Rabin was said to have betrayed the Jewish people. The assassin, rabbinical student Yigal Amir, justified his act on that very basis, telling police that he was acting on the basis of a rabbinical *din rodef* ruling. "Once something is a ruling, there is no longer a moral issue," said Amir.[829]

Leo Frank presented the Jews with a "moral issue"—a dilemma not of their choosing. Given the extent to which they went to extract Frank from the justice of the secular courts of Georgia, it may all have been for the purpose of exacting their own "higher" Jewish justice on the errant *rodef*.[830] The facts and circumstances of Leo Frank's lynching lead almost inescapably in that Talmudic direction. Steve Oney's incredibly shrewd observation—that the 1915 raid on Milledgeville was very much like the Israeli raid on Entebbe sixty-one years later—may be a precise description.

A Jewish Exodus from Georgia?

An important embellishment of the Leo Frank saga is that Jews fled Georgia in large numbers after his August 17, 1915, lynching. A hasty Jewish exodus would certainly seem logical after an anti-Jewish pogrom of the massive proportions so widely claimed. Journalist Howard Simons's take on the aftermath of Frank's demise was typical of the dire accounts:

> [Frank's] brutal death spooked the Jews of Georgia and far beyond. Many families fled Atlanta, some never to return. Others sent their children away. All were afraid that they, too, would be felled by the same recurring hate virus.[831]

Daniel J. Boorstin, a relative of one of Frank's lawyers, said:

> There followed in Atlanta one of the worst pogroms ever known in an American city, an unpleasant reminder of the Russia from which [they] had fled.[832]

The website History.com attaches a number to the alleged phenomenon, stating as a matter of fact, "Thousands of Jewish residents in Atlanta were *forced to flee* the city because police refused to stop the lynch mob"[833]—a cataclysmic event, given that the Jewish population of Atlanta at this time was estimated to be about 7,000. Eli N. Evans, writer of *The Provincials,* spoke of the grisly lynching of Leo Frank, which, he said, "put a pall on Jewish life,

inducing *half the Jewish population to leave Atlanta*…" Fear, he asserted, spread throughout the South.[834]

Had such a mass flight occurred, it would have been the second mass Jewish exodus from Georgia, the first being in 1740. The English colonial rulers had banned slavery from the colony, a ban that triggered an exodus of both Christians and Jews, until only three Jewish families were left in Georgia. The Jews left the colony, according to Rabbi Dr. Jacob Rader Marcus, because "Negro slavery was prohibited, the liquor traffic was forbidden." Jewish winemaker Abraham De Lyon said he left for "the want of Negroes...whereas his white servants cost him more than he was able to afford." It was not until 1749 that Georgia permitted slavery and that is when Jews returned *en masse* to stay. By 1771, half of Georgia's 30,000 population were Black slaves.[835]

And while that slave-based Jewish exodus from colonial Georgia has been well documented, the Leo Frank-based exodus may be as unprovable as the conjured cries of "hang the Jew." As can be gleaned from the many reports, notices, ads, and articles in the daily press, Frank's April 1913 arrest and August 1913 conviction for the murder of the Gentile Mary Phagan caused no distraction in the social, religious, or business life of the Jewish community and no disruption of their relationships with their Gentile neighbors and customers. A few months after Frank's trial and conviction, Jewish merchant M. Rich heralded his company's 1913 Christmas sales—which would necessarily involve Christian Gentile customers—saying the volume "was more than satisfactory." Essig Brothers reported that "business was great," and Jacobs' Pharmacy said extra employees were needed to

handle the holiday rush.[836]

One might expect the many Jewish businesses in Georgia to face collapse and ruin in the aftermath of the Frank trial. The front page of the January 4, 1914, issue of the *Atlanta Journal* reports that the Marcus Loeb company built a brand-new 42,000-square-foot building for its manufacturing operations and its "300 operators." That same issue reported that the Hirsch brothers had joined forces to combine their grocery and tobacco businesses. Louis Hirsch claimed that 1913 generated the "largest sales of any year" in his 14-year career. He expected 1914 to be "unusually successful"—in Atlanta! Next to that story was a photograph of the entire sales force of the Rosenfeld Company—with all their names listed underneath. They had just enjoyed "one of the jolliest affairs ever held at Atlanta's Standard Club," the foremost Jewish social club in the South. The dinner "was in celebration of the close of a successful year [1913] for the company," which supplied home furnishing goods throughout the South. The newspapers reported on the burial of J.W. Hirschfeld, which was attended by his brethren of the Free Sons of Israel and Frank's own clergyman Rabbi David Marx, just six months after the guilty verdict.[837]

The *Journal* announced that a large audience had heard a lecture on "Judaism Within and Without," delivered by "the unusually gifted" Dr. H. Yood.[838] Noted cartoonist and humorist Rube Goldberg actually *came into* Atlanta for an appearance, and the *Journal* headline of January 5, 1914, announced, "GOLDBERG READY TO UNCORK BARRELS OF FUN." Goldberg's cartoons were featured prominently in nearly every issue of that paper and often on the front page—sometimes on the very same pages covering news of the Leo Frank

affair.[839] When Goldberg arrived, the paper reported: "the sun shone a little brighter" and

> the negro porter's face was cracked two feet wide where his mouth should have been….He [Goldberg] will also be wined and dined by the newspaper fraternity and given the glad hand everywhere for if there is one fellow genuinely and universally popular, it is Rube—and we want him to know it.

In none of these cases was there any mention of anti-Jewish sentiment or trepidation about "anti-Semitism" among the Jews themselves. Apparently, no Jews had fled, were fleeing, or were planning to flee, from Atlanta.

Miss Marion Goldsmith hosted a "beautiful spring luncheon," with cakes, flowers, and fruit baskets, at her Peachtree Street home. She wore "a beautiful morning toilet [costume] of blue taffeta and maline"—not your standard refugee attire.[840]

To top it off, in March of 1914—less than a year after the murder of Mary Phagan and while their leader Leo Frank sat in a prison cell on death row—the Grand Lodge of B'nai B'rith held its 40th convention, attracting to Atlanta seventy "of the most prominent Hebrews" and their friends and families from all over the South. In his well-received address Mayor Woodward expressed his friendship to the Jews and pledged "to assist the order in any way possible," according to the *Atlanta Journal* report.[841]

So the 1913 trial and conviction of Frank produced no exodus. But the case dragged on for two more years, culminating in the lynching of Leo Frank on August 17th, 1915. And here again, little

evidence supports the shocking tales of Jewish trauma and suffering. Quite the contrary, the pro-Frank *Atlanta Journal* reported in its August 29th edition that the Marietta police actually added fifteen officers to its ranks after the lynching because officials had received letters from *supporters* of Leo Frank "threatening various sorts of vengeance because Frank was lynched." Eight "suspicious" men thought to be associated with those threats were rounded up and "invited to leave" the city limits by police. The report did not disclose the men's religious affiliation.[842]

The only Frank-related violence appears to be the episode when a Jewish store owner named Joseph Sokolow struck and wounded a man named James Lee, who had shown a photo of Frank's lynched body in the store.[843]

If any Jewish family or enterprise should have faced the wrath of a bloodthirsty anti-Semitic mob, it was the Montags, who owned the National Pencil Company, where the murder of Mary Phagan occurred. They were seen as having countenanced an unsafe environment, where teenage Gentile girls were in constant sexual peril from their employer, whom the Montags had installed and seemed to be protecting at all costs. But this item nevertheless appeared in the *Atlanta Journal* just 33 days after Frank's lynching:

> The firm [Montag Bros.] reports that its mail orders are still coming in large quantities, and that indications are that the people of the country are needing goods and needing them at once.[844]

All the Atlanta dailies were filled with advertisements from Jewish-owned businesses,

without fail or interruption. None of them chose to use their paid space in the newspapers to make any statement at all about the “injustice” they faced as Jews or to simply withdraw their ads or close their accounts in protest.

Atlanta Journal's Post-Lynching View of Jewish Life

In the weeks and months following the **August 17th** lynching of Leo Frank, the social and business pages of the *Atlanta Journal* newspaper show a Jewish community at ease and involved in Georgia social life and community affairs:

August 1915

The week after Frank's murder the Goldsteins announced the December wedding of their daughter Bess to Ralph Lippman, to be held *in Atlanta*.[845] The United Hebrew School invited the public to a "musical program" held at the Jewish Educational Alliance building, which was to be addressed by "the rabbis of the various synagogues of the city." This notice was positioned next to a large ad for Jacobs' Pharmacy.[846]

September 1915

Will and Mack Hirshberg *returned to Atlanta* from a successful sales trip through North Carolina.[847] An article on the same page that matter-of-factly reported a Tennessee lynching of a Black man, trumpeted the fact that Albert Greenberg, "the most popularly known prescriptionist in the state of Georgia," would be joining the staff at Jacobs' Pharmacy, where he would no doubt "make a friend of every man he meets."[848] The paper reported that the H.L. Singer company had increased its delivery facilities to

handle increased orders. J.M. Frankel, the "Swell Social Leader" of the Rosenfeld Company, had just returned from California. According to the *Journal*, "He declares he had the best time of his life and saw marvelous things."[849] Mr. L.R. Lebsky *came back* to Atlanta and to his job at Rosenfeld "after a pleasant vacation" of fishing and swimming.

The Atlanta Zionist Society announced that its music program would be held at the Jewish Educational Alliance. Harry Edison announced that he would open a new "cut rate" shoe store.[850] The *Journal* informed Atlanta that all the synagogues in the city were preparing for *Rosh Hashanah*, and it listed the other Jewish holidays that would soon be celebrated in Atlanta.[851] On September 7th the paper reported that Joe Jacobs came to Athens and gave a banquet for his boyhood friends.[852] The Jews announced that their sermons for the Jewish New Year would be a call for peace in the world and a fundraiser for their brethren overseas.[853] Jews in prison were excused from labor on the Jewish holiday and pastored to by Leo Frank's own rabbi, David Marx.[854] The local Atlanta election, it was found, fell on a Jewish holiday and so an effort was made to change the *Atlanta* law—not the Jewish law—to enable Jews to vote.[855] And Jews were respectfully asked by the fire commissioner to be careful with their use of candles during the holiday celebrations.[856] Hundreds of employees of Rich's department store, the largest Jewish business in Atlanta, were pictured in the September 19 issue of the *Atlanta Journal*. Also, the Atlanta Zionists organization held its third annual Succoth Dance.[857]

October 1915

A.W. Rosenfeld reported a positive business

outlook and planned to double the size of one of his window-shade-making divisions.[858] The paper reported that Sime Einstein left with his son for New York, but it was only to buy goods for a new store they intended to open in Atlanta, not to flee.[859] Cotton magnate Oscar Elsas felt comfortable enough with Atlanta's court system that he used it to file a lawsuit against another Jew, Nathan Wolfe, for $2,000 in damages for an auto accident he said was Mrs. Wolfe's fault.[860]

Jacobs' Pharmacy, the Jewish business that Leo Frank said he visited on the day of the murder, reported that it was setting sales records for the drug Tanlac at its *eleven* Atlanta stores.[861] The paper noted that Rabbi Heyman Solomon of the Washington Street synagogue "will deliver an interesting sermon" on the subject "Why Some People Commit Treason."[862]

November 1915

The *Journal* reported that E.M. Hirshberg was reappointed for the fourth time to be the editor of the *Macon County Citizen* newspaper.[863] Rich's hired a "corset" expert from Chicago to help southern women obtain the proper fit.[864] Frank's employer Montag Bros. appears again in an ad, to offer to entertain a "large number" of merchants that were arriving in Atlanta.[865] Later in the month a Montag representative cautioned buyers to get their holiday orders in soon, as business was brisk. Readers were informed that two of Montag's salespeople, S.F. and Leopold Hein, had spent Thanksgiving at the Atlanta home of their parents.[866] Leonard Jacobus was likewise back home in Atlanta from southern Georgia, having brought back to his employer F.W. King & Company "glowing reports of great

prosperity prevailing in that section."

Congratulations were expressed for the "splendid work" of the local leader of the Atlanta chapter of the Associated Advertising Club, Frank E. Lowenstein, after achieving a national position. That article is directly below a report of the first meeting of fifteen members of the reborn Ku Klux Klan atop Stone Mountain, a meeting where, significantly, neither Leo Frank, Mary Phagan, nor the Knights of Mary Phagan are mentioned.[867]

December 1915

The Jewish Progressive Club elected its new leaders, who were anxious to move into their brand-new $30,000 building ($730,000 today). This announcement is on the same page as an advertisement for the Jewish-funded Ku Klux Klan recruitment movie *The Birth of a Nation*.

All these examples demonstrate that the reports of anti-Jewish violence and rioting are unsupported by the extant reportage in and around Atlanta, Georgia. The dailies show that not only did Jews seem to have comfortably maintained good relations with the Gentiles but also Jewish businesses continued their advertising accounts with the papers without interruption.

In the end, no Jews were forced to leave the city, the state, or the South as a reaction to the Frank case. In fact, a Jewish leader named Victor Kriegshaber, who was a member of the grand jury that indicted Leo Frank, was elected president of the Atlanta Chamber of Commerce *just five months* after Frank's lynching. The *New York Times,* the primary promoter of the anti-Semitism myth, cited Kriegshaber's election as conclusive proof that Atlantans felt no antagonism toward Jews. Under

the headline "PREJUDICE WELL DISPROVED," the *Times* wrote:

> [All] can now point to a fact showing conclusively that the bitter rage of which Frank was the unfortunate victim *was not the result of his race*, but of the peculiar conditions which existed in Atlanta prior to the murder of Mary Phagan and other conditions which arose during the trial of Frank.[868]

Dr. Albert Lindemann concluded that far from Jewish panic and mass exodus, "Jews continued to move into the city in numbers no less impressive than before the Frank Affair." Once again, Harry Golden appears to be the source for the unsubstantiated claims of a mass exodus and anti-Jewish boycotts, but Steven Hertzberg corrects him, asserting that "there was no dramatic exodus or panic."[869]

A study by the Goldring/Woldenberg Institute of Southern Jewish Life found that

> Despite the fears stemming from the Frank lynching, Atlanta's Jewish community continued to grow, from 4,000 Jews in 1910 to 12,000 by 1937.[870]

That is, there was a net population gain of 300 Jews per year in Atlanta, not a decline. Frank's wife, Lucille, buried her husband in Brooklyn and then *returned to Atlanta*. In the spring of 1916 she left for Memphis, Tennessee, to take a position as manager of her brother-in-law's clothing shop. She returned to Atlanta in 1921, "where she took a job at one of the city's best fashion salons." Her "Negro driver chauffeured her to her bridge games and

other appointments."[871]

The Black Side of Georgia "Justice"

When it came to justice in Georgia, Blacks experienced an outcome markedly different from that which Jews enjoyed. As with other states with high populations of Blacks, Georgia's legal system remained critical to the state's white supremacist infrastructure, and it wholly devoted its resources to crippling the Black man and woman and forcing them—through fear, intimidation, and unprovoked brutality—into economic and political subservience. Candidates in the 1906 gubernatorial race publicly jousted for votes over "the most effective way to keep blacks away from the ballot box."[872] The overarching policy imperative was to keep the state's quarter-million Black farm workers and their families tethered to the plantation, providing the labor for an economy still almost totally based on cotton.[873] All of Georgia's laws upheld and reinforced that racist economic policy objective.

Blacks could be arrested without cause, put on chain gangs, and held for any length of time—the concept of legal representation by an attorney or even due process was as remote for Blacks as was voting or equal pay. The hardened custom of barring "negro testimony" placed all Blacks in a legal no-man's land, where a crime against them was entirely invisible unless and until a white man—for his own purposes and self-interest—chose to corroborate that testimony. There were fewer than ten Black lawyers practicing in the entire state of Georgia at the time of the Leo Frank trial, down from twice that number just a few years before.[874]

As far as Blacks were concerned, the Atlanta

police force was little more than a legitimized den of hoodless Klansmen.[875] The Black-owned newspaper *Weekly Defiance* in 1881:

> We have lived in Atlanta twenty-seven years, and we have heard the lash sounding from the cabins of the slaves, poured on by their masters; but we have never seen a meaner set of low down cut throats, scrapes and murderers than the city of Atlanta has to protect the peace.[876]

In 1905, Atlanta police arrested roughly 10,000 Black men—an astounding twenty percent of the Black male population—but *not for any actual crimes*.[877] Through the generalized charge of "vagrancy," Black "criminals" underwent "corrections" through the "therapy" of forced labor. Black men were leased to planters in times of harvest and to construction firms to build the state's roads and bridges. Nine out of ten people arrested in Georgia for these invented offenses were Black, branding much of the male population as "criminal"—a fact that would frame much of the pro-Frank rhetoric at trial and in the media, then and since.

Prof. Leonard Dinnerstein confirmed that Atlanta's police force

> rely increasingly on an irrational use of power. On one occasion, for example, when Atlanta had experienced a labor shortage, the police attempted to rectify the condition by arresting all able-bodied men found on one of the main streets. Employed and unemployed, black and white, were hauled into court, fined, and sentenced to the stockade without being

given a chance to defend themselves…[878]

Throughout the Leo Frank case, Blacks were suffering horrific public violence. This is just a sample:

Atlanta Constitution, August 7, 1915
NEGROES WERE HANGED AS SPECTATORS SAYS
"There Is Land of Pure Delight"—Seven Men Legally Executed and 2 Lynched.

Atlanta Constitution, August 2, 1915
WOULD-BE LYNCHERS BALKED BY SHERIFF
Two Negroes Are Rushed at Midnight From Fitzgerald to Macon.

Atlanta Journal, February 14, 1915
THREE MEN ARE SHOT BY NEGRO FROM AMBUSH
Worth County Farmer Dead; Two Others Fatally Wounded

Atlanta Journal, May 15, 1915
SLICK NEGRO NOT FINED FOR STOCKADE ESCAPE

Atlanta Journal, January 23, 1915
TWO MEN ARE HELD FOR KILLING OF NEGRO

Atlanta Constitution, August 18, 1915
WOMAN'S ASSAILANT LYNCHED IN DECATUR
After Being Identified by Victim, Negro Is Shot to Death by Mob at Amsterdam.

The power wielded by the police, however, was not "irrational," as Dinnerstein suggests. The need for Black labor was particularly great and the police force served as an important arm of a specific labor-conscription strategy of Atlanta's business and political leaders.[879] With all this flurry of police activity on behalf of business interests, it's no wonder only one murder in one hundred was ever punished in Georgia. And since 1911, twenty unsolved murders of Black women in Atlanta further proved the police force's real function as labor recruiters and overseers—not as peace officers and crime fighters.[880]

We believe there should be consequences to bigots and bigotry. One way to combat bigots is to put a price on bigotry. I would hope that if this is, in fact, true, that his colleagues condemn him and distance themselves from him.

—

Abraham Foxman, former National Director of the Anti-Defamation League[881]

There must have been a nigger in the crime who knew about it before Newt or anyone else. I am afraid Newt knew.

Yet, if he did, he is one of the most remarkable niggers I ever saw and I wish I had his nerve.

—

Closing argument by Leo Frank's attorney Luther Rosser[882]

There was a galactic difference between the extensive hearing Leo Frank obtained and the kind of "justice" routinely dispensed to Black defendants. Leo Frank's trial was the most expensive—$10,000 (about $1.3 million today)—and longest trial (thirty days and a transcript of 1,080,060 words) in the history of the South.[883] By the time the governor commuted his death sentence Frank had filed appeals in a dozen courts, had the services of two of the largest private investigation firms in the country, and obtained the representation of more than a dozen lawyers—including the governor himself.

Compare that with this account by journalist Pierre van Paassen, who visited an Atlanta courtroom *ten years after* the Leo Frank lynching:[884]

> The judge, a shriveled up little man with blackened teeth stumps and a drooping mustache, wore a soiled linen jacket and

had unfastened his collar, for it was stifling hot in the courtroom. On the side stood the prisoners closely packed together, all Negroes. They were waiting to be tried, or rather to be sentenced, and were called one by one to face the man on the bench.

“Joe Smith,” called out a cop.

The man answering to that name approached the magistrate.

“Nigger, what was you doing in that woman’s room Saturday night?”

“Judge, I wasn’t in no woman’s room…”

“Thirty days! Next!”

“Fred Hastings!” called out another cop.

“Haven’t I seen you here before, nigger?”

“No, sir, judge, I never...”

“Thirty days! Next!”

“Elsie Gibson!”

“Your name Elsie? You scratched your landlady’s face?...Was you drunk, Elsie?”

“No sir, Your Honor, I wasn’t drunk…”

“Thirty days!”

"Charles Newman!"

"Nigger, you were caught with a knife in your hand, threatening an officer... "

"Your Honor, that wasn't no knife!"

"You carried a deadly weapon! Thirty days on the chain gang!"

"But Your Honor, I was peeling potatoes when the officer walked in....And it wasn't no knife..."

"Don't talk back! Sixty days!"

"Sixty days, Your Honor! What for?"

"Shut up, nigger, ninety days on the chain gang. The trouble with you is that you talk too much..."

"Jeez, Your Honor, it was the victrola that was playing. I wasn't doin' no talkin'!"

"You talked yourself into a year on the chain gang, nigger. You used profane language in court...Take that blabbermouth away...Next!

In just 200 words (five of them "nigger") and about five minutes, the four Blacks were sentenced to a total of 455 days, their lives, and the lives of their families, unalterably redefined and irrevocably labeled "criminal" in the very same way as was James Conley.[885]

In open court Frank's attorney Luther Rosser spoke the common language of white superiority:

> Nobody knows better than these police, how they lie. Take a negro caught with stolen chickens. He always says he bought 'em from Aunt Lizzie Jones. It's gotten so now that Andy Calhoun sends 'em to the chain gang just the minute they say that. Tell me they haven't imagination? I had old negro mammies tell me about B'rer Rabbit and tar-babies long before I ever heard of Uncle Remus.[886]

This was the "justice" faced daily in Atlanta by Black men, women, and children, a system devoid of the flock of attorneys, private investigators, multiple appeals, cross-examinations, international letter campaigns, petition drives, and indignant editorials—let alone a stenographer or witnesses or even a swearing-in—that Leo Frank availed himself of but claimed he never received.

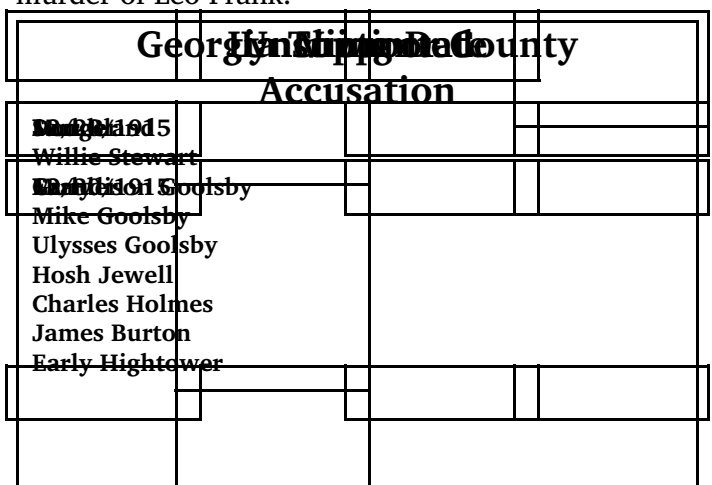
Georgia Lynchings After Leo Frank[887]

NAACP field secretary James Weldon Johnson wrote just five months after Frank's lynching:

> Only a few weeks ago Georgia published a declaration of superiority by lynching seven Negroes and burning down the meeting places of several colored lodges. Now comes the news of a mob in the same state hanging five Negroes…[888]

In Valdosta, Georgia, just three years after Frank's death, a pregnant Black woman named Mary Turner was hanged from a tree, then soaked with gasoline and set afire. As she hung there, a white man ripped open her womb with a penknife. The infant fell out and wailed twice before the monsters stomped it to death.[889]

These are the forgotten lynch victims of Georgia for whom no books are written. Indeed, they are so forgotten that a 2015 report by the Equal Justice Initiative found an incredible 700 lynchings that had been previously unknown.[890] Below are just some of the innocent Black lynching victims of white America, in the state of Georgia, since the murder of Leo Frank:



[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Blacks in the Leo Frank Case

Several Black men and women were in some way involved in the events surrounding the murder of Mary Phagan. Their testimonies were often key to establishing the state's case against Leo Frank, as they often conflicted with some aspect of Frank's alibi. Several more Blacks were drawn into the case during the appeals process to overturn Frank's murder conviction. For many, their lives were severely disrupted and permanently altered through their connection to the case.

Aaron Allen "negro stool pigeon," who early in the investigation of Mary Phagan's murder was employed by the police detectives to stay in the jail cell and coax a confession from Newt Lee; was paid $15 by Frank's agents to swear Conley had confessed to him.

Gordon Bailey ("Snowball") elevator operator, arrested April 28th and jailed for at least three weeks. Friend of James Conley. As a sworn "colored" witness for the defendant, he testified at trial.

Emma Beard Frank's assistant Herbert Schiff; she testified about Schiff's actions on the day of the murder.

Bell "negro detective" employed by William J. Burns.

Annie Mae Carter was asked by a friend of Frank's to put poison in Conley's food. She declined. Burns hired her to try to frame Conley with a set of forged letters falsely attributed to Conley.

James "Jim" Conley former elevator operator at the National Pencil Company who testified that

on the day of the murder he was ordered by his employer Leo Frank to move the dead body of Mary Phagan from the second floor to the basement, to write notes to divert suspicion from the murderer, Leo Frank, and to burn the body in the factory furnace.

Will Green was claimed, falsely, by the defense that Green was "shooting craps" with Conley in the basement of the factory on the day of the murder and that he may have been a witness or participant in the crime. He was said to have left town as a circus employee shortly after the murder.

Annie Hixon was Frank's brother-in-law Charles Ursenbach; she received the call from Frank on the day of the murder cancelling his and Ursenbach's plans to go to a baseball game. She testified that Frank was in the Ursenbachs' home the day after the murder "just laughing and talking like they always do…."

Charles A. Ison was one of William J. Burns's agents for $3 a day to find Blacks who worked at the factory next door to the National Pencil Company to say they had heard screams coming from the basement.

Ivy Jones testified that Conley was not drunk on the day of the murder, said his affidavit to the contrary was forged.

Newt Lee was the National Pencil Company night watchman who discovered the body of Mary Phagan in the factory basement on the last of his hourly rounds. He was implicitly named in the murder notes, and thus he was the first person to be suspected of the crime. He was arrested early Sunday morning, April 27th.

Truman McCrary was at the factory three times on the day of the murder.

Albert McKnight was Minola McKnight; revealed to his

employers what his wife had told him about Frank's confession to the murder of Mary Phagan; he also disputed Frank's version of what he did when he came home for lunch on the day of the murder.

Minola McKnight "Negro servant girl" working in the home of Leo Frank. She told her husband, Albert, and later swore to police, that she had overheard Frank's wife say on the night of the murder that an intoxicated and suicidal Leo Frank confessed to killing Mary Phagan.

Fred Herbert detective William J. Burns to get a confession from Conley.

Arthur Pride the National Pencil Company who testified about his financial dealings with James Conley.

Frank Rose Frank's detective William J. Burns to get a confession from Conley; seen often with Burns agent Jimmie Wrenn.

Mary Rich lunch stand near the factory and was approached by Frank's wife and his spiritual leader, Rabbi Marx, and asked to sign a false affidavit implicating James Conley. She refused but the false affidavit was forged and submitted anyway.

Mark Wilson have seen Conley buy food from Mary Rich, who denied the story as fiction.

Blacks Tortured for Frank's Sins

"I could shoot you through the bars of your cell right now."

—A friend of Leo Frank's to James Conley

The mistreatment of Blacks who were connected in some way to the case has gone mostly unexamined. After Mary Phagan—whose life was cut short and who endured exploitation and victimization at the hands of her employer—it was the Blacks who bore the most abuse in the Leo Frank affair. The many violations of civil and human rights in the two-year-long case were suffered in large part by Blacks alone. White witnesses were interviewed but Black witnesses were said to have been "sweated" or subjected to the "third degree," a term defined as "the inflicting of pain, physical or mental, to extract confessions or statements."[891]

Gordon Bailey was the young Black elevator operator in the factory and he was arrested two days after the murder, along with Newt Lee, James Gantt, and Arthur Mullinax. He was kept under

arrest for at least three weeks and, according to one report, was put through a "grueling interrogation."[892]

When the Black night watchman was arrested, police handcuffed him to a chair and threatened him with lynching. Dinnerstein wrote, "the police...allegedly tortured him mercilessly." Indeed, sleep deprivation was one of the methods described by Newt Lee in his testimony. Lindemann added that Lee suffered the "common practice," for Black suspects, of being "browbeaten and roughed up by the police to extract a confession." Frank himself stated in court that Lee "shrieked and cried" upon receiving the "third degree,"[893] and Frank's own attorney addressed this in the courtroom: "There were things you [detectives] did to him for which you will never be forgiven. You persecuted the old nigger…"[894] But Frank was never treated in this way. In fact, *as a suspect held in prison*, Frank aided in Lee's interrogation.[895]

Even with this "official" abuse, it was claimed that Newt Lee actually preferred to remain in the custody of the police in part because he had been harassed by Jewish supporters of Frank and feared for his life. Lee was not released from his ordeal until after Frank's sentencing.[896]

James Conley's lawyer, William M. Smith, informed the court that Frank's supporters made extraordinary efforts to force a confession from Conley. Burns agent Annie Maud Carter months later testified that the friends of Leo Frank had tried to poison Conley.[897] Smith told the court that Conley's life was in danger and that he had to be moved from his cell:

> …Conley had asked to be taken away from the tower to escape the harassments

> of the visitors of Leo Frank, declaring that they stopped at his cell and tried to make him drink liquor, and had tried to intimidate him by making jeering remarks to him and implying threats. "I could shoot you through the bars of your cell right now," and "Don't you think you ought to be shot?" are some of the statements visitors are quoted as making.[898]

Conley's lawyer had to petition the court to permit his client to bathe, but Frank's attorney Reuben Arnold protested: "I understand they want to give him a bath. If Mr. Smith wants to give him a bath let him do it. Let him turn the hose on him if he wants to."[899] Talk of this type about Frank—the accused murderer—would never have been countenanced.

A private agent *hired by Frank* had locked Conley in a six-by-eight-foot "sweat box" in the police station, with a newspaper reporter stationed in the hallway recording the illegal interrogation.[900] Dorsey said the agent and police detectives "bored" him[901] and subjected him to a "strenuous third degree,"[902] and Golden says the grilling included "beating him." And just as Southern newspapers would preannounce the time and place of an illegal lynching, an *Atlanta Constitution* headline announced *in advance* that "NEGRO WILL BE SUBJECTED TO ANOTHER THIRD DEGREE TODAY."[903]

Leo Frank escaped those harsh interrogation methods, even though the whites that had him in custody believed him guilty of the rape and murder of Mary Phagan. In fact, at the trial he later claimed was unfair to him, Leo Frank did not even have to

suffer cross-examination or any uncomfortable questioning at all.

Blacks were subjected to yet another layer of abuse and intimidation—a psychological assault—when they were referred to in open court by Frank's lawyers as "colored" or "nigger" or "darkey," and the newspapers followed suit. No such bigoted, anti-ethnic, racist language was ever applied to Jews—in or out of court.

Still, outside the jailhouse, violence befell Blacks who had tendered evidence of Frank's guilt. In a mysterious attack Frank's cook Minola McKnight was knifed across her face and was left with a five-inch wound. She would not reveal her assailant, if she knew, but the attack was suspected of being related to her damaging testimony in the Leo Frank case.[904] Her husband, Albert, was in Frank's home on the afternoon of the murder and provided an account of Frank's movements that conflicted with Frank's alibi. McKnight sustained serious internal injuries, a gash to his head, and bruises in an incident on the train tracks involving him and Atlanta police detectives—a circumstance for which we have only the police account. Albert McKnight had been previously threatened with bodily harm. A detective working for Leo Frank had promised Albert his help in finding a job as a Pullman porter if he would renounce his previous unfavorable testimony. If he refused, "the Jews would get him."[905] Albert then repudiated his repudiation and claimed his original statement that damaged Frank's alibi was the truth. In doing so he *voluntarily* asked to be placed in the protective custody of the police! Leo Frank himself commented on the incident:

> Is it not passing strange that a negro, of his own volition, desire to be locked up

> in the station house? I venture the assertion that in the annals of police history no negro has ever made such a demand....Is it not remarkable that a negro should try to break into jail?

This action by McKnight is more of a commentary on the level of threats, intimidation, and violence by Frank's small army of mercenaries and operatives—a veritable lynch mob that on Leo Frank's behalf actually scared Black people *into* jail.[906]

At the time of Leo Frank's trial that kind of violence accompanied every aspect of Black life in America. The mistreatment of Blacks connected by circumstance to the fate of Leo Frank is especially disturbing—both in its occurrence and in its disregard by scholars of the case.

The Cross-Examination of Leo Frank

Frank is a man of marvelous memory for details [and] very methodical.[907]

—
William
J.
Burns,
famous
detective
hired
by Leo
Frank

He [Leo Frank] was unduly anxious; he told contradictory stories.

—Steve
Oney[908]

Nagging Questions, Devious Lies

Today's believers in the innocence of Leo Frank have continued the tactic pursued in the courtroom by his lawyers, who assigned all manner of dishonesty to James Conley: Frank's attorneys variously called Conley "a dirty, filthy, black, drunken, *lying* nigger"; "a dirty negro *crook*"; a "beastly, drunken, filthy, *lying* nigger"; a "filthy, criminal, *lying* negro"—being careful to pair untruthfulness and uncleanliness with the Black race.[909] Frank's attorney Reuben Arnold summarized his client's defense:

> If there is one thing for which a negro is capable it is for telling a story in detail. It is the same with children. Both have vivid imaginations. And a negro is also the best mimic in the world.[910]

Frank's folksy lead advocate Luther Rosser added: "If you put a nigger in a hopper, he'll drip lies. His whole intelligence trends in that direction."[911]

All that racial bluster simply camouflaged the fact that several significant falsehoods, lies, and deceptions led Leo Frank to his ignominious downfall, starting with his account of his actions on the day of the murder. In fact, Frank has been found to have lied about at least a dozen significant aspects of the case, including his movements on April 26th, 1913, his familiarity with the murder victim, his relationship with his young female employees, and many other key points. From the moment police first contacted him on the day the body was discovered, Frank seemed to drip lies.

If we step off the well-worn paths laid out by

Frank's partisans and engage in a critical study of the affair, our examination uncovers significant new detail unwittingly overlooked or purposely ignored. These underappreciated "strands" of evidence demand a fresh analysis to determine whether they do indeed create a rope strong enough to uphold the conviction of Leo Frank.[912]

Alibi Under Fire: 'I was in my office'

It was established by Leo Frank's own testimony that on the last day of her life, Saturday, April 26, 1913, Mary Phagan was in his office on the second floor of the National Pencil Company "shortly after 12 o'clock."[913] Frank emphatically asserted to police that he was in his office *continuously* between 12 noon and 12:45 p.m.[914] He said:

> Now, gentlemen, to the best of my recollection from the time the whistle blew for twelve o'clock until after a quarter to one…to the best of my recollection, I did not stir out of the inner office…[915]

He paid Mary her $1.20 in wages and then she left. He had no idea what happened to Mary after that, only that he remained in his office working for the next forty minutes. That was his alibi, he was "positive" about it, and he was sticking to it.

Monteen Stover

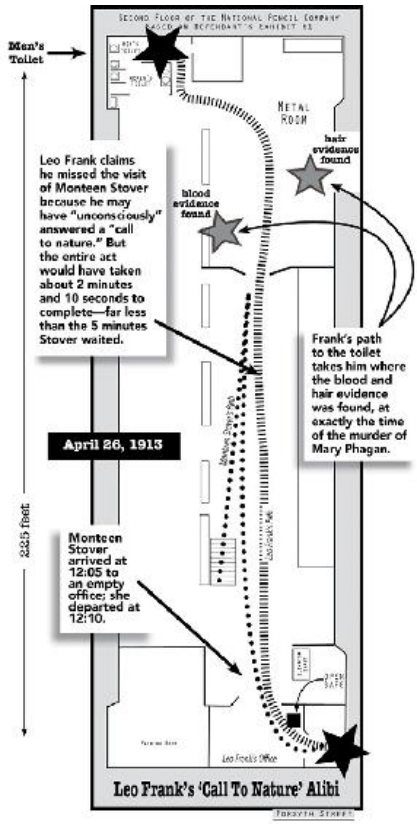
But a week after the murder a 14-year-old factory worker named Monteen Stover emerged to

say that on the day of the murder she sat alone in Frank's office waiting for her paycheck for a full five minutes, from 12:05 to 12:10. She went into both his inner and outer offices but did not find Frank anywhere. After waiting five minutes she left.[916]

When Frank became aware of Stover's explosive testimony, he modified his formerly definitive statement thus:

> [B]ut it is possible that in order to answer a call of nature or to urinate I may have gone to the toilet. Those are things that a man does unconsciously and cannot tell how many times nor when he does it.[917]

Several things about Frank's new explanation are inconsistent logically, mathematically, and anatomically. Frank specifically refers to the bodily function of urination as an essential part of his new alibi. But the biomechanics of that act itself are incongruent with Frank's new claims, and may actually implicate him more deeply.


Men's Toilet
METAL ROOM
hair evidence found
blood evidence found
Leo Frank claims he missed the visit of Monteen Stover because he may have "unconsciously" answered a "call to nature." But the entire act would have taken about 2 minutes and 10 seconds to complete—far less than the 5 minutes Stover waited.
Frank's path to the toilet takes him where the blood and hair evidence was found, at exactly the time of the murder of Mary Phagan.
April 26, 1913
225 feet
Monteen Stover arrived at 12:05 to an empty office; she departed at 12:10.
Leo Frank's Office
Leo Frank's 'Call To Nature' Alibi

In the adult, the volume of urine in the bladder that normally initiates a reflex contraction is about 300–400 milliliters (or approx. 10 to 13.5 ounces, the amount in a can of soda). The average urine flow rate for males is 21 milliliters per second. This amounts to approximately 20 seconds for an average male to urinate. The toilet in the rear of the National Pencil Company's second floor is 225 feet from Frank's office.[918] That makes a round trip of 450 feet, at 4.42 feet per second (average male walking speed[919]), a total of 102 seconds to and fro. With a few "unconscious" seconds for flushing, washing of hands, etc., the entire "unconscious" act should have taken just about 2 minutes and 10

seconds—far less than the 5 minutes Stover waited (see diagram).

Further, as much as 280 feet (63 seconds) of that "unconscious" walk would have been within earshot and view of Monteen Stover, who was sitting in Frank's empty office in the "still and quiet" factory listening and looking for Frank's return. She actually walked 140 feet—more than halfway to the bathroom—to the door of the metal room, and, finding it closed and the floor apparently deserted, left the factory.

Then there is the brazen irresponsibility of "unconsciously" leaving the office unattended. It is an act that is difficult to ascribe to a conscientious and fastidious factory manager such as Leo Frank. Monteen Stover testified that the door leading to the rear area of the floor was closed. Frank would never have left his two office doors wide open and accessible to unknown factory traffic, but then close the metal room door—which further isolates him from potential activity—to go to the toilet on the opposite side of the building. This would have to have been a very conscious act, given that the very security of his office was at stake.

Frank then added a *second* alibi option that raises even more questions than it answers. Frank claimed that he was at his INNER OFFICE desk when Monteen Stover arrived but that she did not notice him. He says very carefully:

> Now, sitting in my office at my desk, it is impossible for me to see out into the outer hall when the safe door is open, as it was that morning, and not only is it impossible for me to see out, but it is impossible for people to see in and see me there.[920]

Frank's explanation should have been alarming to the shareholders of the National Pencil Company, since he was admitting that he had configured his office to allow strangers direct access to the company treasure without his observation. In answer to a direct question put to him at the coroner's inquest about who was in the outer office at the time of Mary's arrival, Frank answered, "I don't know."[921] And one might infer that this circumstance regularly occurred, a state of affairs that effectively defeats the very purpose of a safe.[922] Mr. James Gantt had been fired by Frank for allegedly miscounting a couple of dollars, yet Gantt had not made the safe vulnerable to thieves as had his boss Leo Frank.

Monteen Stover was very clear about what she did that day, and she was far more sure of her actions than was Frank: "I went through the first office *into the second office*." And she specifically said she did not notice the safe. At the trial Frank's lawyers presented photographs of the INNER office showing the door of the safe in the outer office in a position that blocked the view of Frank's desk. The prosecution attorney wisely solicited from the photographer that the office furniture may have been "rearranged" in the many weeks between the murder and the photo shoot.[923]

Whereas, the act of urinating *might* be considered a reflexive and even unconscious activity, the procedures that Frank had to go through to secure his office and the safe and travel 225 feet away required absolute consciousness. Frank was *conscious* of the fact that the factory's front door to the street was open (Mary Phagan and several others had entered the factory unhindered) and that there were other employees in the building, including "negroes," whom he believed to

be natural thieves. He said that he had heard "a girl's or woman's voice" directly after Mary Phagan had left his office, but he could not identify the voice and did not feel the need to try. He testified that he knew "that the employe[e]s would be coming in for their pay envelopes, [so] I had them all in the cash basket beside me, to save walking to the safe each time."[924] Thus, there was no reason for the safe to be open at all.

Nonetheless, Frank's fiduciary and security obligations—closing *and locking* a safe and securing a basket filled with cash payments—to leave the office to relieve himself add a critical layer of responsibility that cannot be claimed as an "unconscious" reflex action.

Still, Frank's admission that he may have made an "unconscious" trip to the toilet between 12:05 and 12:10 may actually have been an "unconscious" confession to the murder of Mary Phagan. The physical blood and hair evidence of the murder was found in the rear metal room area of the second floor en route to the toilet; and medical testimony showed that the murder occurred shortly after Mary's arrival shortly after noon. By Frank's own account of his own "unconscious" actions on that day, he places himself exactly *where* the murder occurred, exactly *when* the murder occurred.[925]

The Immaculate Visit: Lemmie Quinn Just Misses a Murder

Leo Frank held on tight to his claim that he never left his office between 12 noon and "a quarter to one." But when Monteen Stover came forward a week later to reveal her visit to an empty office, he had to quickly revise his alibi.

A full ten days after the murder and after several interrogations, Frank *suddenly remembered* that at 12:20 p.m. he had been visited in his office by a factory foreman named Lemmie Quinn. He had stepped into Frank's office and exchanged greetings for less than two minutes before leaving the factory.

Lemmie Quinn

If this visit actually occurred, it would have

placed Frank in his office *after* Monteen Stover's office visit and at the very time that prosecutors estimated the murder had occurred. Frank revealed this alleged visit while under oath at the coroner's inquest on May 5th, when the incredulous coroner asked, "How could you forget such a thing?" Frank claimed it had simply "slipped his mind":

> …This is the first time I recollected the incident….I had not thought of it until reminded of the incident. My memory was refreshed. I recollected it clearly. This is the first time I have made it known.[926]

Many Atlantans were as skeptical as the coroner, for this remembered visit too neatly emerged just as his previous alibi suffered a serious challenge. Many Atlantans suspected that Quinn had been bribed to tell this tale, a suggestion that "outraged" Quinn, who offered to "whip" his accusers.[927] As would later come to light, Frank's hired agents and supporters did indeed bribe, threaten, and invent witnesses without reservation or restraint. And the more the alleged Quinn visit is examined, the more it appears to fall into the category of testimony-for-hire.

When first questioned by police about his movements on the day of the murder, Lemmie Quinn denied being in the factory at all.[928] He then admitted his presence but estimated his arrival time as between 12:00 and 12:20 p.m. Later, he admitted under oath that he "couldn't say exactly what time it was."[929] And then his reason for actually coming to the factory on his day off changed over time. At first he told the coroner that "I wanted to see Frank and tell him Howdy-do. I knew he would be in the place. He is always there on Saturdays." But at trial

three months later a new reason emerged: "I went to the factory on April 26th, to see Mr. Schiff. He was not there."[930]

Quinn says he stayed with Frank only a couple of minutes and then left and met up with other factory workers. But two other co-workers testified they saw Quinn at a cafe near the factory just after 11:45 a.m.—35 minutes *before* the time claimed by Frank and Quinn and well before Mary Phagan's arrival at 12:03 p.m. The two young women both testified that Quinn told them that he had *just been up to see Frank*.[931] Frank himself let slip an unintended verification of the women's testimony when he told the coroner that Quinn had greeted him with a hearty "Good *morning*."[932]

And then there is Quinn's demeanor that raised the detectives' suspicion. Frank's own hired investigators from the Pinkerton Detective Agency further interrogated Quinn on his alleged visit to Frank's office and commented:

> The statement was made readily enough, but that part relative to Quinn's having gone to the factory about 12:20 or 12:25 p.m. was halting and lame, given in a manner that might denote that Quinn did not care to commit himself. This manner was also apparent, even stronger, when questioned as to his conversation at the Coleman home and also his conversation with Mr. Frank on Thursday, May 1st… [when] Quinn reminded Frank [about the April 26th visit to the factory].

Quinn acted strangely when paying respect at the home of Mary Phagan's mother and stepfather. The Colemans interpreted Quinn's abrupt departure

as “a manifestation of fear” at having to meet Mr. Coleman.[933]

Further, Quinn continued to act on behalf of the Frank defense when he dropped a rumor casting suspicion on James Conley. According to the Pinkerton Report of May 17,

> Foreman Quinn stated that on two occasions complaints had come to him from two girl employees of the factory that Conley had been too familiar in his talk.[934]

Again, no previous mention of this lynchable offense had ever arisen, and no subsequent testimony backed up that allegation.

Most damning are the words Quinn shared with reporters on his way out of the coroner’s inquest on May 6. As has been discussed, the arrest of James Conley on May 1st may have been engineered by Frank’s defense team to keep him from being questioned at the inquest. Quinn seemed to be participating in the plot to conceal Conley when he made this strange statement to the *Atlanta Constitution* reporter: “As I came downstairs on the way out, *I saw someone in the rear of the first floor—a person whom I would have no grounds whatever to suspect.*” He went on to say: “No! I won’t divulge his name. I’ll tell the detectives in time.”[935]

The unintentional consequence of Quinn’s dubious visit was that it undermined Frank’s theory of the crime. By the time of the trial Frank’s lawyers had advanced the notion that Conley alone murdered Mary Phagan. They insisted that it was he who sat in the shadows of the first floor and pounced on the girl as she walked down the stairs from Frank’s office at about 12:10. He then dragged

her down into the basement, where he further strangled her, wrote notes to place near the body, and then exited through the basement door. If Quinn had left when he claimed, at 12:25, and "*saw someone in the rear of the first floor—a person whom I would have no grounds whatever to suspect*," then Quinn, in trying to establish an alibi for Frank, actually destroys Frank's theory of the crime.

Does Frank's Financial Sheet Alibi Add Up?

In his trial statement, Leo Frank spent much of his time trying to prove that he was so engrossed in preparing a complex weekly financial form on the afternoon of April 26th that he could not have had time to commit the murder and do all that was required to conceal the body and clean up the murder scene.[936]

Beyond his reliance on the repugnant "negro crime" defense, this financial sheet remained Frank's only stated alibi. On its face it has many weaknesses, among them the fact that there were no witnesses to him completing the financial form; nor was it ever established that there was any real urgency for Frank to complete the task by day's end or that there was any consequence if he failed. Would a Sunday delivery of the financial sheet to the company's majority shareholder, Sig Montag, and stockholder Oscar Pappenheimer be a career-ending misstep? Pappenheimer testified that he was not expecting to see it until Monday morning, and Montag did not actually see the form until Monday afternoon.[937] In any event, police did not confiscate the forms in their initial investigation, so there is no way of verifying that the forms placed in evidence at the trial[938] were indeed the same ones Frank claimed to have prepared on the day of the murder.

Before it became so central to his afternoon activity, Frank let slip under oath at the coroner's inquest that the financial sheet takes about "an hour and a half" for him to complete.[939] During trial, an accountant testified that the task would require about two and a half hours to complete.[940] Either

way, Frank's dedication to this weekly duty did not seem overly burdensome for an energetic manager with years of experience.

And there was another event Frank planned on that day that undermined his alibi's believability. Frank had made plans with his brother-in-law to go to an Atlanta Crackers baseball game, which was set to start at 4 p.m., but he cancelled—he said at first—because of the weather. His testimony at the coroner's inquest was as follows:

> Coroner: "Did you intend to go to the ball game on Saturday?"
>
> Leo Frank: "Yes, until I got up and saw it was a cloudy day."[941]

In other words, Frank was claiming that his decision to cancel his game plans was made in the early morning, long before Mary Phagan's murder at about noon. But Frank did not phone his brother-in-law Charles Ursenbach to cancel their outing until 1:30 p.m.[942] Thus, no one could corroborate Frank's claim to an early Saturday change of plans, and prosecutors used the 1:30 call to show Frank's panicky post-murder behavior.

At the trial Frank gave a different reason for canceling:

> [I] called up my brother-in-law to tell him that *on account of some work I had to do at the factory*, I would be unable to go with him...[943]

If Frank came to work expecting to go to the baseball game, he would have planned to finish working on the financial sheet in the morning so

that his afternoon would be free. Thus, Frank had to establish that his decision not to go was made early in the day so that his delaying that work until the afternoon could be justified.[944]

Frank therefore had to downplay his bad weather excuse and emphasize an overwhelming workload that caused him to toil on the financial sheet late into the afternoon. And for this he would have to get the support of his 20-year-old "chief clerk and first assistant" Herbert Schiff, who on the witness stand had a very contentious exchange with Prosecutor Hugh Dorsey. Schiff was referring to the financial report when he claimed, "We couldn't make it up until Saturday afternoon."[945] But under a withering cross-examination Schiff acknowledged that Leo Frank could have finished the factory's financial sheet the morning of the murder.[946] And, further, he established that Frank "could have done all of the work in two hours and a half," hardly the all-day grind that Frank portrayed.[947]

There was yet more that Herbert Schiff offered that whittled away at Frank's alibi. Frank claimed he was expecting Schiff to come down to the factory to help him complete the financial sheet. That claim was critical to Frank's alibi, because the prosecutor was arguing that Frank had *pre-planned* the Saturday meeting with Mary Phagan and was thus trying to clear the factory so that he would have the privacy he needed to isolate and pressure her into a sexual encounter.

Frank claimed that to complete his financial report he needed sales data that only Schiff could supply, so Frank had to show that he was trying to get Schiff to come to the office. If he could prove that point, it would destroy the state's pre-planned encounter theory.

Schiff never made it to the factory that day, but

a closer look at the interaction between Frank and Schiff's household reveals yet more of the kind of "negro testimony" that vexed the Leo Frank defense. According to Frank's own trial statement:

> I told Alonzo Mann, the office boy, to call up Mr. Schiff, and find out when he was coming down, and Alonzo told me the answer came back over the telephone that *Mr. Schiff would be right down, so I didn't pay any more attention to that part of the work, because I expected Mr. Schiff to come down any minute.*[948]

But when the 13-year-old office boy was questioned at trial, his recollection diverged from his boss's account: "I telephoned him, but the girl answered the phone and said he hadn't got up yet." He did not claim to have relayed any message at all to "the girl" about Schiff's coming down to the factory, or about the financial sheet, or about any other business. One might just as easily interpret Mann's account as evidence that Frank only wanted to know Schiff's whereabouts so that he could be sure that Schiff would not interrupt his plans with Mary Phagan. Adding weight to that hypothesis is Alonzo Mann's clear statement, "*I telephoned once,*" which would suggest that there was no urgency and that Schiff's no-show at the factory was a non-issue for Frank.

"The girl" Mann referred to was Schiff's Black "servant" of seven years, Emma Beard, and her "negro testimony" seemed to corroborate Frank's statement that Mann called *twice*, at 10:30 and 11:00 a.m., and under oath she added:

> I answered the telephone. It was about half past ten. It sounded like a boy's

> voice. It said, "Tell Mr. Schiff Mr. Frank wanted him at the office." Mr. Schiff was asleep at the time. I waked him up and he said, "Tell Mr. Frank I will be there as soon as I can get dressed." And I repeated the message to the boy and told him what Mr. Schiff said. Then Mr. Schiff went back to sleep again.[949]

This, of course, supports Leo Frank's version. On the second call at 11:00 a.m., she said the words were the same. But on cross-examination Ms. Beard, who just said she had "waked him up," concluded her testimony thus:

> On Saturdays and holidays Mr. Schiff generally sleeps. Sometimes he goes to the factory when I wake him up. He never gets up unless I wake him. *Mr. Schiff told me sometime afterwards he was glad I did not wake him up that day.*

Ms. Beard let slip the probable truth that Schiff was in bed to stay, that he had no intention of working that Saturday, and that Alonzo Mann—whose truthfulness would become a major element of the case many years later—did not even ask him to come in. And while Frank's attorneys must have been floored by the Black woman's inconvenient truthfulness, the prosecutors apparently missed this opportune chance to explode Frank's alibi. Further, Schiff conflicts with his own "servant" when he testified, "With [one] exception *I have not missed a single Saturday* after the first of June, 1912."[950]

Ironically, the "negro testimony" by Ms. Emma Beard can be seen as spoiling the many perjuries of the Frank coalition. Ms. Beard did her part to try to keep the alibi together, but in her effort to prove to

the court that her boss Mr. Schiff was pleased with her actions she undermined Frank's well-planned defense.[951]

The witness for the defense was not the only problem for Frank's "financial sheet" alibi. The *Atlanta Journal* recorded an unexplored line in the trial testimony of factory foreman Lemmie Quinn. Lemmie, if we recall, claimed to have visited the factory at 12:20—just a few minutes after Mary Phagan's arrival—where he had a brief conversation with Frank in his office. Both Quinn and Frank suddenly "remembered" this visit a full week after the murder. Revealed by Frank for the first time at the coroner's inquest, it provided a miraculous alibi —too miraculous for many who remained deeply suspicious. At Frank's trial Quinn claimed to have been at the factory office that fateful holiday to collect on a baseball bet with Herbert Schiff. When asked what Frank said to him, Quinn testified that "Frank replied he didn't think Schiff would be down that day."[952] This is a direct repudiation of Frank's own trial statement, "I expected Mr. Schiff to come down any minute." Again, prosecutors did not pick up the obvious implications of this "friendly fire" from Quinn.

But there is yet another wrinkle in Frank's carefully woven tale: the entire story may have been entirely fabricated. The defense counsel Reuben Arnold placed into evidence a timeline that Frank claimed was followed on the day of the murder.[953] It shows that Frank left the factory Saturday with plant manager N.V. Darley at 9:40 and returned at 11:00 a.m. But Alonzo Mann testified that his first call to Schiff was at 10:30. Frank, stenographer Hattie Hall, and Mann all testify that Frank gave the order to Mann *in person* and it was acted upon immediately.

Leo Frank:

> I told Alonzo Mann, the office boy, to call up Mr. Schiff, and find out when he was coming down, and Alonzo told me the answer came back over the telephone that Mr. Schiff would be right down…[954]

Hattie Hall:

> [Mr. Frank] had Alonzo Mann telephone [Schiff] to come over there to do it, but Mr. Schiff didn't come while I was there.[955]

Alonzo Mann:

> Mr. Frank told me to phone to Mr. Schiff and tell him to come down. I telephoned him, but the girl answered the phone and said he hadn't got up yet. I telephoned once.

According to the defense's own timeline, Leo Frank was not at the pencil factory for any of this alleged Schiff-calling activity.[956]

In sum, the evidence when carefully examined shows that if this call occurred at all, it was done by a meticulous Leo Frank, who was calling Herbert Schiff to gauge if he might foil his plot to have his way with Mary Phagan. Schiff never came down to the factory on the day of the murder, and that was exactly as Frank had intended.

Where did Leo Frank Go After the Murder?

An amateur sleuth knows that the period of time immediately after the crime is critically important, for during that time evidence can be destroyed or invented, clothing can be changed, stories can be synchronized, and alibis can be established. If Mary Phagan was murdered shortly after her noon meeting with Frank, as both the prosecution and the defense surmised, then the next hours of activity by the defendant become critical to his alibi. Leo Frank claimed to have left the factory "a trifle after 1 o'clock" to go home for lunch at 68 East Georgia Avenue, about a mile from the factory, returning to the factory at 3 p.m.[957] But his recollection of his activities during those two hours underwent some significant revisions.

Frank swore that he had left work at 1:00 p.m., arriving at home twenty minutes later. There he ate, smoked a cigarette, and took a nap before leaving to catch a trolley back to the factory. On his return trip he claims to have watched the Confederate Day parade, spoken to an employee, and stopped to purchase a few cigars, before getting back to work.

And, again, the "negro testimony" of Frank's own "servants" undermines his rendition. Minola McKnight was in the kitchen with her husband, Albert, when Frank arrived and they remember his visit quite a bit differently:

> Between 1 and 2 o'clock on Memorial Day I was at the home of Mr. Frank to see my wife. He came in close to 1:30. He did not eat any dinner. He came in,

> went to the sideboard of the dining room, stayed there a few minutes and then he goes out and catches a [trolley] car. Stayed there [in the home] about 5 or 10 minutes.[958]

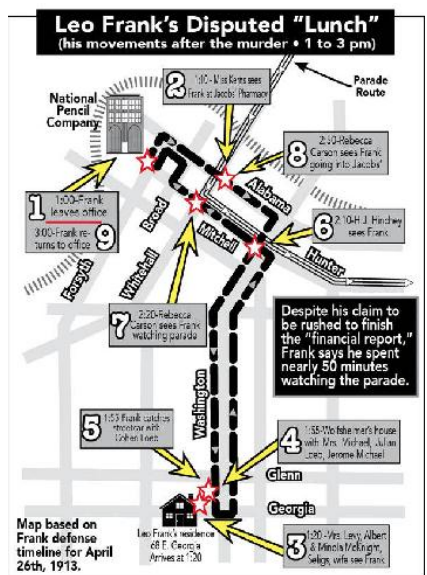
Albert McKnight's eyewitness testimony presents Frank as being so hurried that he skipped eating altogether. McKnight saw no nap taken or cigarettes smoked and saw no apparent point to Frank coming home at all. His wife, Minola, who Frank claimed served the dinner, admitted that Frank ate nothing and only stayed at home for ten minutes.[959]

The next witnesses who claim to have seen Frank in this all-important two-hour timeframe create more suspicion than clarity. They verify Frank's version of his movements, but they all are either relatives or close business associates.[960] A cousin and her friends say that they saw Frank on his way to the trolley and talked to him about B'nai B'rith matters. But Albert McKnight said he watched as Frank caught the trolley and saw no other people interact with him. A cousin named Cohen Loeb rides back into town with him; a factory employee named Rebecca Carson sees Frank not once, but twice—a full 30 minutes apart and amidst a parade-watching crowd of thousands. Another girl whose father was employed by the Montags, Helen Kerns, sees Frank at a store; another sees him sitting in the trolley car.

All this seemed staged to the solicitor, Hugh Dorsey, who in his closing argument challenged Frank's alibi witnesses:

> Gentlemen, talk to me about sad spectacles, but of all the sad spectacles

that I have witnessed throughout this case,–I don't know who did it, I don't know who's responsible, and I hope that I'll go to my grave in ignorance of who it was that brought this little [Kerns] girl, the daughter of a man that works for Montag [National Pencil Company owner], into this case, to prove this alibi for this red-handed murderer, who killed that little girl to protect his reputation among the people of his own race and religion….[961]



What Frank did in that lengthy period directly after the murder of Mary Phagan and before returning to the factory at 3 p.m. is a mystery. In fact, whether he actually returned at that time or before is still in question. Prosecutor Dorsey argued that Frank was anxious to return to meet up with Conley to burn the body, but Conley was a no-show to the planned cremation. So the pressure that

Frank must have felt to dispose of a corpse while still adhering inconspicuously to his Saturday routine seemed to be evident in his hasty home visit. Was he concealing evidence, changing clothes, washing up, writing and rewriting the murder notes, trying to establish an alternative trail? His movements have yet to be accounted for, but the disparity in the conflicting accounts given by Frank, his family members, and his “servants” raises more questions than answers.

Was Mary a Stranger to Leo Frank?

One of the most significant features of the case, and one that increased police suspicion of Frank, was his claim that he did not know Mary Phagan, that he never conversed with her, and that even her name was unfamiliar to him. Over time, Frank's denials lost value as more and more testimony from factory workers indicated Frank not only knew Mary Phagan but harbored an infatuation with her that others noticed and commented on:

- Frank had prepared the weekly time slips, paperwork, and pay envelopes for all the factory's 170 employees and had done the same for Mary Phagan for at least 52 weeks before her death. Frank's own office boy Alonzo Mann said he knew Mary Phagan by sight, even though he had only worked at the factory for about three weeks.

- Only three other girls worked with Mary in the second-floor metal room—on the same floor as Leo Frank's office—through which Frank had to pass to use the backstairway and the men's room.

- Frank's employees testified that they had observed Frank talking to Mary on several occasions. Co-worker Grace Hicks testified that "about two or three times a day" Frank

"would come back to see if the work was being done properly."[962]

- When an opportunity arose to shift suspicion onto another factory employee named James Gantt, Frank suddenly volunteered that Gantt had shown romantic interest in the girl.[963]

- On the day before the murder one of Mary's co-workers came to the factory for her own pay and asked Frank for the pay of Mary Phagan, a common practice among the factory employees. The girl, Helen Ferguson, says that Frank "told me that I couldn't get it; that Mary would be there Saturday and she could get it then alright."[964]

A nuance of Frank's own testimony also shows his familiarity with Mary and indicates that he was indeed expecting her on the day she was murdered. He testified he knew "that the employees would be coming in for their pay envelopes, [so] I had them all in the cash basket beside me, to save walking to the safe each time."[965] Indeed, he only named four who came in. Mary's envelope was there also, or he would have said her visit was a surprise.

Clearly, Leo Frank knew the murder victim and expected her arrival on that fateful Saturday afternoon. His denials of this only helped to make him a prime suspect as the Atlanta police built their case.

The Nerve of Leo Frank

The sheer number of witnesses who testified to Leo Frank's *nervousness* and suspicious behavior after the murder is remarkable. Prosecutor Hugh Dorsey successfully presented that testimony to the jury as evidence of Frank's "consciousness of guilt."

By contrast, the first suspect—the first employee Leo Frank tried to implicate, the night watchman Newt Lee—was notable for his calmness and composure as he showed police around the murder scene.[966] Plant manager N.V. Darley commented: "Newt Lee seemed to be composed when I saw him at the factory." In fact, of the many Black witnesses, none, including James Conley, were ever characterized as "nervous" as they each went through their ordeals.

Below is a list of witnesses and their observations about Leo Frank's nervous behavior after the murder of Mary Phagan.[967]

"Officer Frank appeared to be nervous; this was indicated by his manner of speaking to Mr. Darley [factory manager]; he was in a trembling condition."

"When we started to the basement I noticed his hands were trembling. I observed that he seemed still nervous when he went to nail up the back door….On Monday…when we started down the elevator Mr. Frank was nervous, shaking all over. I can't say positively as to whether his whole body was shaking or not, but he was shaking….When riding down to the police station from the pencil factory Mr. Frank was on my knee, he was trembling."

Motorman W. T. Bowers: "Mr. Frank seemed to be extremely nervous. His questions were jumpy….He was rubbing his hands when he came through the curtains [at his home on the morning of April 27]. He moved about briskly. He seemed to be excited. He asked questions in rapid succession….Mr. Frank was apparently still nervous at the undertaking establishment, he stepped lively. It was just his general manner that indicated to me that he was nervous….Frank still seemed to be nervous like the first time I seen him."

Officer John R. Black: "His voice was coarse and trembling and nervous and excited. He looked to me like he was pale. I had met Mr. Frank on two different occasions before. On this occasion he seemed to be nervous in handling his collar. He could not get his tie tied, and talked very rapid in asking questions in regard to what had happened….Mr. Frank was nervous on Monday."

James Gantt, former factory clerk: "Mr. Frank looked pale and nervous and kind of hesitated and stuttered like he didn't like me in there somehow or other."

Lemmie Quinn: "[Mr. Frank] attracted my attention, on account of his nervousness….He was kind of shaking like that (illustrating). His fingers were trembling."

Jim Conley, factory sweeper: "Mr. Frank was standing up there at the top of the steps and shivering and trembling and rubbing his hands like this….He didn't give me time to stop the elevator, he was so nervous and trembly….[He was] trembling and nervous."

Newt Lee, factory night watchman: "Mr. Frank came to me and asked me to change the slip.' It took him twice as long this time than it did the other times I saw him fix it. He fumbled putting it in, while I held the lever for him and I think he made some remark about he was not used to putting it in...

"…Mr. Gantt came from across the street….About that time Mr. Frank come busting

out of the door and run into Gantt unexpected and he jumped back frightened…"

When Frank gave his unsworn statement in court, he addressed the testimony about his nervous behavior in this way:

> Gentlemen, I was nervous, I was very nervous, I was completely unstrung, I will admit it; imagine, awakened out of my sound sleep, and a morning run down in the cool of the morning in an automobile driven at top speed, without any food or breakfast, rushing into a dark passageway, coming into a darkened room, and then suddenly an electric light flashed on, and to see the sight that was presented by that poor little child; why, it was a sight that was enough to drive a man to distraction; that was a sight that would have made a stone melt; and then it is suspicious, because a man who is ordinary flesh and blood should show signs of nervousness. Just imagine that little girl, in the first blush of young womanhood, had had her life so cruelly snuffed out, might a man not be nervous who looked at such a sight? Of course I was nervous; any man would be nervous if he was a man.

Frank's explanation has satisfied many of his supporters, even though most of the witness testimonies were about his nervousness observed *before* he saw the body of "that poor little child" and before he was accused of any crime. Of course, the many accounts of Frank's unusual nervousness do not in themselves indicate guilt in the murder of

Mary Phagan, but they did add a layer of suspicion that Frank found hard to “shake.”

The Murder Notes & Negro Night Witches

Even between these two notes themselves there is little similarity. You could not testify they were written by the same man.[968]

—

Reuben Arnold, Leo Frank's attorney

The nigger says he can't write and we feel that he can write. I said: "I know he can write."[969]

—Leo M. Frank

The most peculiar feature of the Mary Phagan murder case is also the most contentious, namely the strange presence of two handwritten messages inscribed on pencil company note paper and found

near the body in the basement of the factory. The text of the missives had a strange twist: the notes were written as if they were the desperate scrawlings of a young victim in the last throes of death fingering her killer. The first note read:

> Mam that negro hire down here did this i went to make water and he push me down that hole a long tall negro black that hoo it wase long sleam tall negro i wright while play with me

And the second:

> he said he wood love me and land down play like night witch did it but that long tall black negro did buy his slef.[970]

Frank himself described their significance:

> Unquestionably, without any gratuitous additions, the person that wrote those two notes killed Mary Phagan. There can be no doubt of that, nor do I think any fair-minded and just person will doubt it….[T]he hand that wrote these two notes tied the cord around poor little Mary Phagan's neck. The study of these notes must show the truth.[971]

Certainly, there are aspects of the notes that are intriguing—including the physical construction, the penmanship, the wording and its meaning, and the fact that they exist at all—and require further examination.

From their very discovery by police who first responded to the emergency call from Newt Lee,

they were seen as an anomaly. The notion that they were authored by the victim was quickly dismissed by investigators as the killer's diversion. The dialect and form of the text seemed to indicate that the writer was Black and barely literate. At that time, it must be remembered, it was generally assumed that Blacks could not read or write. To white investigators, a "negro murder" scene with written notes *explaining* the murder put the crime in a class by itself.[972]

In his revealing testimony, the Black factory sweeper James Conley maintained—and the all-white jury believed—that he first entered the crime scene when his boss Leo Frank ordered him to help transport the dead body of Mary Phagan to the basement. They then returned to Frank's second-floor office, where Frank dictated *four* separate notes while Conley wrote them on note paper.[973]

Conley further elaborated that Frank had ordered him to go down in the basement, gather up some wood chips, put them in the furnace, and place the girl's body on top. If he completed the cremation, Frank told him, he would not leave the notes down in the basement.[974] Conley smelled the coffee at this point and probably figured that if he did return to the factory, Frank may well show up with the police only to find a Black man caught in the act of burning the corpse of a white child. Conley opted out, leaving Frank to conceal the body.

Two of those notes would eventually be found by the police—both next to Mary's head; the other two were never found. Frank had always emphatically claimed that the notes were a mystery to him.[975]

Authorship of the Notes

[The notes] breathe the "nigger" in every line. No white man could write notes like that….The idea of the dictating of the notes by a white man to a negro is a joke—it is certainly the most laughable fantasy that ever was formulated by the demented brain of a human being.

—Leo
M.
Frank

James Conley said he wrote four notes at Frank's behest, but only the two near the murder victim's body were ever found. According to Conley,

> …I sat down at the table and Mr. Frank dictated the notes to me. Whatever it was it didn't seem to suit him, and he told me to turn over and write again, and I turned the paper and wrote again, and when I done that he told me to turn over again and I turned over again and wrote on the next page there, and he looked at that and kind of liked it and he said that

> was all right. Then he reached over and got another piece of paper, a green piece, and told me what to write.[976]

The prosecution successfully argued that Frank waited in the factory in vain for Conley to return to help him burn the body, leaving Mary Phagan's remains for Newt Lee to discover. But two curious elements of the writing style lend credence to the suggestion that Frank may have used that Saturday afternoon to reconstruct the notes, using Conley's handwriting as a model.

According to the Frank defense, the notes were written by an "ignorant savage" who was "besotted with liquor."[977] But the formation of the letters and the uncannily accurate positioning of the words on each line would have been an impossible task for someone—anyone—in that state of intoxication. A recent handwriting analysis of the notes by a certified expert found:

> Normal indications of the effects of alcohol on a writer are loss of base alignment, breakdown in letter formation, and general lack of control. None of these characteristics are seen in the questioned handwriting. There are no indications of the possible effects of alcohol on the writer of the questioned notes. However, it must be noted that some writers can produce steady handwriting while under the influence of alcohol.[978]

Second, it is at best illogical that an inebriated, instinctual, and barely literate killer would have or could have thought out the *need* for notes—much less to have diabolically conjured up the intent that

they be misconstrued as written by the dying girl herself. No one admitted to seeing Conley at the factory on the day of the murder, so he had no reason or need to explain away his presence with such notes.

Frank, on the other hand, was seen by as many as a dozen people, and he was the last person to see Mary Phagan. In fact, he was the only person on that day to have spent nearly all his time on the very floor of Mary's destination—where the blood and hair evidence was found. If anybody *needed* notes, it was Leo Frank.

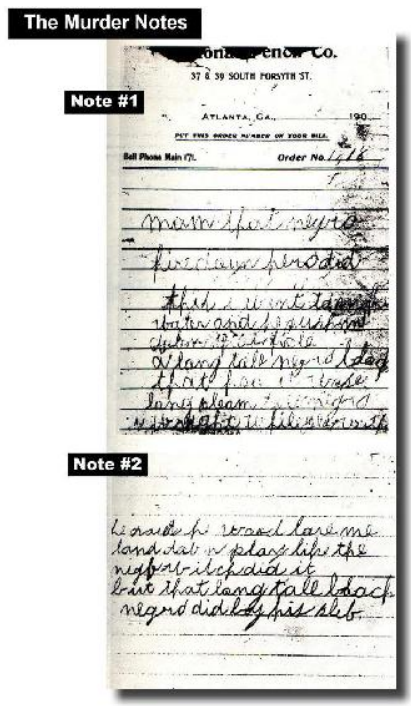
One can easily imagine Frank's distress once he realized that Conley was not going to return to help him burn the body.[979] In all likelihood Frank rewrote the notes to his liking and entered the basement with the intention of placing *a* note next to the body. In the dingy basement, lit only by a gas jet, Frank probably unintentionally left an extra note.[980]

Frank lived in a world where nothing was authoritative unless it was recorded on paper, a world where invoices, reports, requisitions, purchase orders, financial sheets, and time slips gave order to his business affairs. In fact, Frank's whole business of pencil manufacturing served those who believed in the power of the written word, so in a matter so traumatic as murder, Frank, not Conley, would have instinctually seen writing as having the ability to make sense of a frantic situation.

The notes describe a specific person, night watchman Newt Lee ("A long tall black negro did this" and "the night w[a]tch"). Conley testified that he had never seen and did not know Newt Lee, and when Conley and Lee saw each other in jail, a newspaper reporter noted that no look of knowing

glances passed between them. Lee said, “I never knew nuh saw this Jim Conley before last week, in jail.”[981] Only Frank knew Newt Lee *and* James Conley, and only Frank knew that Lee would be on duty that night and would therefore make the perfect target to take the fall for the crime.[982]

And Frank himself may have dropped another clue. When alerted by police the morning after the murder, Frank asked, “What’s the trouble, *has there been a fire*?”[983] This query indicates perhaps what Frank was hoping for and expecting—that Conley had indeed returned to burn Mary Phagan’s body. According to Conley, Frank told him that he would be able to gain access to the basement when he returned,[984] and police did in fact find that the basement door had been uncustomarily unlatched from the inside.[985]



Jewish "Expert on Negroes" Weighs In

A Jewish politician and lawyer named Henry A. Alexander joined Frank's defense team for the post-conviction appeals process. He was a member of the Atlanta Jewish elite and the only Jew in the Georgia legislature during the 1909–1910 session.[986] He, according to Steve Oney, "had grown up with Southern blacks and was a student of their expressions and folklore."[987] This is a generous assignment of authority, given that in the South, "growing up with" the ubiquitous Southern Blacks only meant that one had maids and servants. Indeed, Frank and nearly all his Jewish acquaintances were firmly ensconced in the upper middle class and thus liberally availed themselves of domestic servants. Yet this status alone uniquely qualified Alexander—in Oney's view—as the Frank team's expert forensic folklorist concerning all things "negro."

The issue requiring Alexander's particular racial "expertise" was the phrase "night witch" in one of the notes. As used in the note it seemed intended to direct blame away from the real murderer—the notes' author—to the Black "night *watch*" (or watchman), Newt Lee.[988] And that is how the notes were at first interpreted. Investigating officer L. S. Dobbs reported:

> I was reading one of the notes to Lee, with the following words: "A tall black negro did this, he will try to lay it on the night" and when I got to the word "night," Lee says, "That means the night watchman." I had just said the "night," and he said, "That means the night watchman."[989]

But negro specialist Alexander overruled an actual "Negro" and insisted that "night *witch*" was not really referring to the "night *watch*" at all, but to an actual witch in "negro superstition" somewhat akin to the universally feared bogeyman. This being so, Alexander theorized, the German Jewish New York-reared Cornell graduate, Leo Frank, would not have known of this old southern negro wives' tale; therefore, the naturally superstitious Black sweeper must have concocted the murder notes and committed the crime—alone.[990]

Though Oney, in 2003, appears to have accepted the logic of that argument,[991] there are real flaws in Alexander's theory. When Conley was asked by investigators to write the term "night *watch*," he wrote "night *witch*,"[992] the same misspelling as in the notes.

Alexander's assertion that Leo Frank was ignorant of Blacks and their culture ignores his family's long-time employment of Black servants. Frank had resided in Atlanta since 1908 and employed many Blacks in various capacities—at least eleven at the factory alone. A Black woman cooked daily for Frank, his wife, and her parents, and he had continual contact with her and her husband, who often did odd jobs for the Selig family. His in-laws also employed maids, servants, and a Black chauffeur. Frank had far more exposure to Blacks than most white Southerners. Prior to his southern sojourn Frank was brought up by his wealthy Southern-born parents in New York—an upbringing that very likely included Black maids and servants, a common practice among Jews that extended beyond the boundaries of the South.[993] The idea that Frank would be unfamiliar with Black vernacular or folkways is incompatible with his known life experiences.

Add to that the fact that common Southern culture—in the form of books, newspapers, plays, music, etc.—contained the racialized tales of the Uncle Remus variety, including blackface minstrelsy and severe mockery of "negro dialect."[994] Leo Frank thought so much of these "darky tales" that he named one of the company's pencil lines the "Uncle Remus" in honor of Joel Chandler Harris's beloved plantation fables. In the month preceding the murder of Mary Phagan the *Atlanta Constitution* printed as pure entertainment several examples of this mockery of Blacks.

So ingrained were these "negro" caricatures in white Georgia culture that the blatantly racist news coverage of Frank's own trial, such as that presented here, caused no one to bat an eye. To wit:

> [Newt] Lee was not allowed to sleep, and you know what that means to a negro. No sooner would he curl up on his bunk to dream of yellow-legged chickens, watermelons and the fresh air of liberty, than along would come Black and Starnes or some other member of the detective force to harass him with questions….He told his story so often that doubtless if he were asked which he preferred, fried chicken or watermelon, he would say: "I went down into the basement and—."[995]

Britt Craig, of the *Atlanta Constitution*, was attempting to give his readers a "feel" for Newt Lee's discovery of the body, and adds an element hatched entirely from his own racist mind:

> Something in the atmosphere of loneliness inspired him to hum the

> ancient strain: I got a gal in de white folks yard, Brings me butter ‘n brings me lard, can’t help but love her, so help me Gawd—Shout mourners, you shall be free.[996]

Blackface and coon shouting were mainstays of Jewish entertainment at the very time of the Atlanta tragedy. “Entertainers” like Eddie Cantor, Al Jolson, Irving Berlin, and Florenz Ziegfeld used Black race mockery “as a major modality.” Scholar Jeffrey Melnick says that Jews played “a major role in the manufacture of the racial stereotypes on which American popular culture depended.”[997]

B’nai B’rith Magazine printed meticulously crafted examples of what they considered “negro dialect” on several pages of their publication dedicated to “jokes.” Here is a B’nai B’rith “joke” the Jewish editors titled DARKTOWN:

> Rastus: Whuffo’ yo’ ‘jeculate yoself to me in dat onery manner?
>
> Cicero: Whoffo’? Nigguh, who do yo’ calkerate yo’ is?
>
> Rastus: Yo’ nigguh! mah family am quality folks an’ ahm a pusson of rank.
>
> Cicero: Huh! ah’ll have yo’ triflin’, Rastus, to know that ah’m ranker than you is.

And this titled GOOD ENOUGH:

> Mose: Dat’s a purty shirt you has on, Rastus, How many yards does it take for

one ob dem shirts?

> Rastus: What you all talking about, Nigger? I done got three like them in one yard last night.[998]

Finally, the only explicit reference to "night witches" in cultural folklore comes from—*of all places*—Germany, where the expression *nachthexen,* or "night-witches," derives from 15th-century written lore, a literature that is inseparable from Frank's and Alexander's German-Jewish heritage. Norman Cohn's book on the subject is subtitled "the demonization of Christians in medieval Christendom" and reveals that "The earliest written Germanic Law, the *Lex Salica*, treats the night-witch as a reality" and that the night-witch concept was "traditional amongst the German peoples."[999] This theme of German demonization of Christians certainly was widely adopted by German-American Jews and practiced by Frank and his supporters against the Black—and soon against the white—*Christian* Gentiles.

Leo Frank's attorney Henry "night witch" Alexander resurfaced with yet another theory about the murder notes, this time about the source of the pads themselves. He claimed that the two notes were written on pre-printed order pads whose numerical sequence corresponded to those stored in the basement and not at all with those used in Frank's second-floor office. This theory fits the defense murder scenario in which Conley assaults Mary Phagan as she comes down the stairs from Frank's office and pushes her into the basement, where he alone commits the murder.

Conclusive evidence was presented at the time of the trial that the company note pads were *never*

in the basement[1000] and that the numerical sequence was not only misrepresented but also forged. Henry Alexander had actually altered the note pad number on the photocopy to fit his theory, though he never faced the serious charge of tampering with evidence.

Frank's former office assistant Philip Chambers swore in an affidavit that prior to the murder the desk in Frank's second-floor office, along with the note pads and stationery therein, had been brought up from the basement. And per a very recent order of the fire insurance inspector—*before the murder*—no paper or other flammables had been stored in the basement and all trash was immediately and routinely burned.[1001]

The Message of the Murder Notes

If people want to know who did the murder let them study those notes. There's the secret of the murder. There's the solution. Whoever wrote those notes killed Mary Phagan. Oh—you can't get around that. It's the truth, the all-prevailing truth…

—Leo M.

What may be the most mystifying aspect of the two murder notes is the confused complexity of the notes' message. The wording was intended to appear as if the dying girl herself was writing to her mother and fingering her assailant, the Black night watchman. But the barely literate scribbling, Melnick says, was in "a kind of minstrel show version of African American speech,"[1003] which clashed irreconcilably with its rather sophisticated intent. It perplexed rather than fooled any of the investigators, who could recall no case where a Black rapist and murderer explained his crime at the scene with pencil and paper—and to his victim's mother, no less.

The phrase "that long tall black negro did buy his slef" shows that the author intended to limit culpability for the crime to a single "negro." The term "i went to make water," a folk expression meaning to urinate, points to a specific location where the assault occurred. There was no toilet on the first floor, where Conley was stationed, but there was a toilet—the very one Mary would have used daily—on the second floor where Frank was.

Despite those strange phrases, the notes do accurately foreshadow what unfolded in the months after the murder. From the outset Leo Frank and his team insisted that Newt Lee was the murderer, even taking the unpunished extralegal step of altering his timecard and planting a bloody shirt at his home to make him the lynchable suspect.[1004] The notes, therefore, describe Frank's actual legal strategy from the moment the body was discovered to the end of his trial.

In his trial testimony, Conley never actually discusses the notes' contents, only the mechanics of their creation. One suspects that Frank's cross-examining attorneys avoided pressing Conley for the details of the message, because such a course of action might have demonstrated to the jury his inability to comprehend and thus author the notes.

For example, as Conley is writing the notes he says he is unaware of their actual purpose. One of the notes appears to be addressed to the victim's mother with these words: "Mam that negro hire down here did this…" According to Conley, Frank told him that the notes were intended for *his* (Frank's) mother:

> You are a good boy. I am going to send these notes to my mother in Brooklyn, New York who is rich and who will probably send you something.[1005]

As the *Journal* recorded it:

> Frank left him with the impression…that an easy job with good pay awaited him with Mrs. Frank, Sr. in Brooklyn.[1006]

When recalling his role in writing the notes, Conley insisted one of them began with "Dear Mother."[1007] A *Georgian* reporter probed deeper into Conley's story:

> "Didn't it strike you that 'long tall black negro' would be taken to mean you?" "Yes, sir," said Conley, readily. "It did and I tole Mr. Frank so. I said, 'Look here, Mr. Frank, they're going to think that means me.' But Mr. Frank said he

> just wanted it to send to his mother, so his mother wouldn't think he done it, and he told me he had powerful wealthy folks in Brooklyn—that was the first time I ever heard he had rich folks up North at all. I thought they all lived here—so I wrote what he told me."[1008]

Further Analysis of the Notes

The two notes left next to the body of Mary Phagan contain a total of 64 words and appeared to police at first to be part of an ill-conceived getaway scheme. But a careful analysis of the notes reveals a more calculated method in their construction.

Within days of the murder a handwriting expert for a major company, named A.M. Richardson, told an *Atlanta Constitution* reporter that he was "fully convinced that the negro night watchman *did not* write them."

> They were written by a white man, and an educated man at that. The letters are formed too expertly, and adhere too closely to the ruling of the paper on which they were written. In my opinion they were written by the murderer, a shrewd man, with intention of reflecting guilt upon an illiterate negro.[1009]

The noted journalist, editor, and literary critic of the *New York Herald Tribune* Arthur Burton Rascoe adds another layer of intrigue:

> To me the notes…do not have the ring of

authenticity, either as notes written by Mary Phagan or as composed by Conley, or as dictated to him by Frank. The illiteracy of them is not consistent. Words like “mamma,” “write,” “watch” and “himself” are misspelled, but the other words are spelled correctly. “Hired” is written “hire,” whereas “laid” (if that is the word) is correctly used and spelled. “Did” appears where the incorrect “done” would appear more likely. The use of the word “negro” is an anomaly; lower-class Negroes in the South do not use it, they use the word “niggah,” especially in designating a Negro they wish to condemn and in spelling the word would use some approximation of the way they pronounce it.

Who, then, wrote the notes? Whoever wrote them, I think, achieved a very clumsy attempt to fake illiteracy.…Why? Because if the body was to be burned by Conley, according to plan, as Conley testified, there was no point in writing the notes. If the [body] was to be destroyed by cremation in the furnace there was no reason for leaving any evidence of any kind, including a phony description of the slayer. But, if Conley had failed to return after lunch, as he had promised to do, there was reason for Frank to leave such notes. Time was pressing. Frank, according to his own story to the police was—so far as he knew—alone in the building from the time Lee came…[1010]

In using a mix of inflections and misspellings of *some* words, the educated killer tries to feign both illiteracy and ignorance, imperfectly simulating what he believes is a "niggery" style of writing, as it was later described by one of Frank's supporters.

And Leo Frank continued to drop clues leading right back to himself. In his own trial statement, he described the physical appearance of the original notes as he held them in his hand: "[N]ow, both of those notes were written as though they had been written through a piece of carbon paper…"[1011] If anyone knows the look and appearance of carbon copies, it is someone who manages a pencil factory and whose very livelihood depends on the writing quality of its only product. Indeed, Frank's observation on that score would have to be considered expert testimony. And if the notes were written through carbon paper, as Frank himself declares, then this almost certainly excludes James Conley for whom, as factory sweeper, carbon copying would have been an entirely alien practice.

Frank's carbon copy speculation, however, not only suggests but reinforces the plausible theory that Frank used Conley's writing as a model, tracing over it—through carbon paper and onto blank paper—ostensibly to maintain the look of "a negro's" handwriting while forming his own message. Conley testified that Frank was not satisfied with his several attempts at note writing, so Frank's revelation about the possible use of carbon paper makes the "traced handwriting" theory a most likely scenario.

If any person shall teach any slave, negro or free person of colour to read or write either written or printed characters, or shall procure, suffer or permit a slave, negro, or person of colour to transact business for him in writing, such person so offending shall be guilty of a misdemeanor, and, on conviction, shall be punished by fine, or imprisonment in the common jail, or both, at the discretion of the court.[1012]

—

Georgia State Law, enacted 1833

Conley's schooling was far better than that of most blacks of his era.[1013]

—Steve Oney

To Leo Frank's advocates and supporters, James Conley is a cunning, Svengali-like deceiver who gamed the entire state of Georgia by concealing his ability to read and write, thus leaving Frank as the obvious suspect.[1014] Therefore, if Conley can be shown to have writing skills, he is *ipso facto* guilty of murder. As their champion author Steve Oney explains,

> Conley was not only cunning—he was literate. He could well have authored the notes discovered near Mary Phagan's body as part of a plot to pin the Phagan murder on his white boss.

Oney has taken this argument further than others, and in this passage tries to confer upon Conley a veritable Rhodes scholarship:

> Indeed, he'd been directly touched by the institutions John D. Rockefeller, Alonzo Herndon and Henry Hugh Proctor built. In the late 1890s, Jim had attended Mitchell Street Elementary, Atlanta's best Negro public school. There, he'd been tutored by Alice Carey (Spelman, 1893) and Ara Cooke (Atlanta University,

> 1896). Mrs. Carey was Mitchell Street's principal, Miss Cooke a teacher, and though they had Jim as a pupil for only two years, by the time he left, he could read and write.[1015]

By dropping those names, résumés, and associations, Oney implies that Conley had somehow received personalized, one-on-one instruction and absorbed all the knowledge gained from his "tutors" in the short time he attended the segregated public elementary school. Oney continues:

> I also found in a long overlooked piece of trial testimony the relevant fact that Conley's education was far better than that of most blacks of his era. He had been a student of two of Atlanta's most influential black educators—one a Spelman grad, the other an Atlanta University alumna….Eventually, I located a retired school teacher who as a college student had been close to Conley.[1016]

Oney's source is an *Atlanta Georgian* article covering a part of Conley's trial testimony.[1017] The entire exchange between Luther Rosser and James Conley about his schooling is recorded as follows:

> Rosser: When did you go to school?
>
> Conley: Before I went to work [at age 11].
>
> Q: You don't know where it was?

> A: Yes, it was at the Mitchell Street School.
>
> Q: Who was your teacher?
>
> A: Miss Aaron Cook.
>
> Q: Who was the principal?
>
> A: Miss Corey.
>
> Q: What year was it?
>
> A: I don't know.[1018]

From that brief exchange Oney was somehow able to extrapolate that James Conley's educational experience was "far better than that of most blacks of his era." Conley says that his *teacher*—singular—was Miss Ara Cooke and that the *principal*—not his "tutor"—was Ms. Alice Carey. Conley gave direct testimony that was never impeached at the time of trial or anytime thereafter:

> I never did go to school further than the first grade. I went to school about a year….I don't know what year it was I went to school.[1019]

Inexplicably, Oney actually doubles Conley's time in school from *one* year to two. He claims that Conley attended "Atlanta's best Negro public school," as if that phrase alone is not fatally problematic. Oney can muster no proof of Conley's enrollment, no attendance records, no grades or transcripts, no exam scores, no homework samples, or any other indicators of performance.

In 1894, around the year Conley would have attended, it was reported that the Mitchell Street School had 442 seats but because of extreme overcrowding the school had to turn away 179 applicants.[1020] In its twelve years of operation it had already had eight principals.[1021] Each teacher in the *white* schools had at least 60 pupils in her overcrowded classroom.[1022] The "tutoring" of any one pupil under such conditions was hardly possible. In fact, when Mary Phagan's family moved from Marietta to East Point in Atlanta, Mary could not get a desk at her overcrowded new school, so she took a job at Leo Frank's pencil factory until the start of the next school year.[1023]

Most troubling is that in seeking to make Conley intellectually culpable of the murder of Mary Phagan, Oney must rewrite the history of Black American "education" and place himself in irreconcilable conflict with true scholars in the field, such as Paul E. Peterson, who wrote: "Blacks not only were educated separately from whites, they also were relegated to markedly inferior schools and were excluded altogether from secondary schooling until 1920."[1024]

Oney ignores the horrid circumstances surrounding Black education in Atlanta, in his quest to give Conley an advanced degree from "the best Negro public school." In fact, Oney has no basis to conclude that Conley "could read and write" at all. Searches of Conley's residence produced not a single writing sample by his own hand, or books, magazines, newspapers or any literature in his home. Conley's mere one year in first grade suggests that his training was curtailed—as was the case for many Black children—by Jim Crow work requirements that forced Black children into their prescribed life's role as the "hewers of wood and

drawers of water" for white society.

And there is nothing in Conley's employment history as a buggy driver, a stable hand, and a worker at a wood yard[1025] that suggests that he would have needed or used any reading or writing skill whatsoever. Even at the time of Leo Frank's trial, Conley's only known previous writing experience seems to have been the marking of boxes for Leo Frank in the pencil factory.[1026] This contrasts sharply with the findings of handwriting expert Dr. Linton Mohammed, who analyzed the murder notes in 2012 and concluded:

> The quality of the handwriting… indicate[s] that its writer had some level of formal training in handwriting. The writer holds to the baseline and retains the left margin.[1027]

In reality, Conley was able to read and write just enough to qualify him as a *functional illiterate*—a person whose skills in reading and writing are barely sufficient for ordinary practical needs. And in Jim Crow Atlanta in 1913, this made Jim Conley perfectly qualified to stay in his predetermined "negro" place at the bottom of white Georgian society. After making false, unsupported conclusions about Conley's education, Oney simply resorts to Rosser-like racism:

> Just how long Conley thought he could fool [detectives] with his impersonation of a mumbling, subliterate Rastus is unknown.[1028]

Through his entire exercise, Oney actually exposes one of the more insidious traits of a white supremacist: To "prove" how dangerous Conley is,

he must show how educated Conley is. That is precisely the mindset behind the near-maniacal white effort to keep Blacks uneducated, illiterate, and subordinate—confined to their place at the bottom of white society.[1029] W.E.B. Du Bois's axiom is confirmed: "[T]here was one thing that the white South feared more than Negro dishonesty, ignorance, and incompetency, and that was Negro honesty, knowledge, and efficiency."

The Educated Murder Notes

The very idea of writing notes and putting them by the dead body to divert suspicion is even more characteristic of a drunken, ignorant negro than the language itself. Emphatically no. The whole dictation theory is silly. In the first place, no intelligent white man would do such a thing either by writing himself or having another write for him. He knows that handwriting is a sure clue.

—Leo Frank

A review of the two murder notes side by side reveals some interesting characteristics:

Note 1 (39 words):

> Mam that negro hire[1030] down here did this i went to make water and he push me down that hole a long tall negro black that hoo it wase long sleam tall negro i wright while play with me

Note 2 (25 words):

> he said he wood love me and land[1031] down play like night witch did it but that long tall black negro did buy his slef.

By anyone's theory the notes could only have been written by Leo Frank or James Conley, or by both. Early on, several key figures suggested that the notes could have been the work of two separate authors. Mary Phagan's stepfather, J. W. Coleman, expressed his belief that note #1 beginning with "Mam," "Somehow…looks like her handwriting to me. But, of course I can not be sure." He thought the other note "seem[ed] to be written too well for the child to have done it."[1032] Three handwriting experts assembled by the Atlanta detectives concluded, quite wrongly, that the notes were scrawled by "the negro" Newt Lee. But one of them, Andrew M. Bergstrom, admitted that the handwriting "had many similar points" to that of Leo Frank. According to the *Journal*, "He pointed out that a man of Frank's intelligence could have disguised his hand more readily than the negro."[1033]

Several suspicious features tend to point to Leo Frank as the author:

- The sheer wordiness of both notes is excessive, given their purpose of deflecting blame onto a Black man. In an almost conversational tone the notes relay a detailed explanation and careful elucidation of a crime. There are 64 words when three —"nigger did it"—would have sufficed. For similar self-defeating loquaciousness, see Leo Frank's disastrous written statement that he read aloud at his murder trial.[1034]

- The sophisticated *intent* of the notes caused the police to be uncomfortable with Newt Lee as a suspect, for it "was too subtle a plan to suggest itself to Lee's mind."[1035] As stated, scholar of the case Dr. Jeffrey Melnick compared the language to "a kind of minstrel show version of African American speech."[1036] This is significant because minstrelsy is by definition a comical mockery of Black dialect, *not* the Black dialect itself. It is purely Caucasian in its origin, and its practice became the domain of Jewish entertainers performing with their faces smeared in jet-black makeup known as blackface.[1037] Michael Alexander, writing in his book *Jazz Age Jews*, asserts clearly: "Jews performed this kind of minstrelsy in the 1910s and 1920s better and more often than any other group in America. Jewish faces covered in cork were

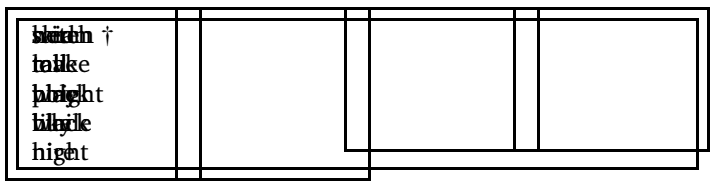
ubiquitous."[1038] Minstrelsy would have been far more familiar to Leo Frank than to James Conley.

- The term "play" is used in both notes: in the first note its meaning is to pretend, and in the second note it is meant as sexual slang, to masturbate, a denotation that added a sexual motive to the crime itself. Despite the desperate attempts to create a deviant sexual persona for James Conley, he was never accused of or charged with any sexual misbehavior in his job among the more than a hundred and fifty white girls and women. It was Leo Frank who was accused by several female employees and others of sexual harassment and other aberrant sexual acts.

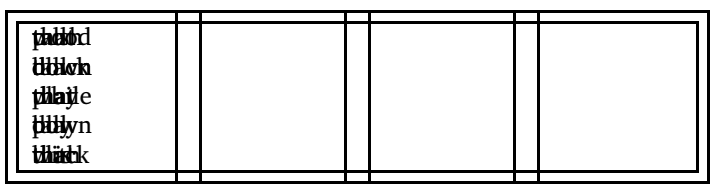
- Two words, "wood" and "hoo," are attempts to misspell words to simulate illiteracy. A barely literate person is likely to be a phonetic speller (one who spells words the way they *sound* to the speller) and would not know that the vowel digraph double *o* represents two different pronunciations—as in the words hood and zoo—*neither of which sounds like the known letter-sound "o."*[1039]

- James Conley had one year of Jim Crow schooling approximately two decades before the murder of Mary Phagan. He would be expected to

misspell words with silent letters.[1040] Of the 64 words in the notes, 18 contain silent consonants and/or vowels, and the writer of the murder notes put those letters in their proper places:



- Of the 64 words 20 (below) contain digraphs (two letters combined to make a single sound).



† "Sleam" is not a word. It is here meant to represent the word "slim."

Three words—*witch*, *night*, and *wright*—contain trigraphs. Words with irregular vowel sounds like "said," "love," "water," "wood," "down," "buy," "push," and "tall" are nonetheless spelled correctly. The "d" sound in the word "and" and "land" is silent in the Black vernacular, and thus would not be sounded out as necessary in the crafting of the notes by a drunken Black person with one year of elementary education. There is also the "th" sound at the end of the word "with," which is often sounded out as "f" or "t" in the Black vernacular.[1041]

The misspelled word "wright" (intended to mean *handwrite*) is an apparent blend of *right* and *write*, but it is unlikely that Conley would have

known how to spell either of those words properly, given that each has two silent letters. Conley apparently can not get *write* right, but he can write *while* correctly.

Many of these words cannot be sounded out and must be committed to memory, a process that requires time and practice through writing trial and error. *Buy* is one of those words: "by" is not only spelled wrong but contains the letter *u*. It describes a function that Frank—not Conley—performed daily in his job as factory superintendent.[1042]

In a lengthy and laborious statement in court, Frank sought to explain that given the complexity of the work he was doing on the company's financial sheet, he could not possibly have committed the murder the afternoon of April 26th.[1043] He also claimed in court that during the time of the murder he was writing a letter to his uncle Moses Frank, who had a business interest in the factory. The original handwritten letter, however, was never introduced into evidence—only a typewritten copy was proffered[1044]—leading to speculation that it was concocted after the murder and that the actual letters Frank was composing that Saturday afternoon were the murder notes.[1045]

Murder by Compound Adjectives • Once James Conley began to reveal his experience with Leo Frank on the day of the murder, the Hearst newspaper *Atlanta Georgian* saw an opportunity to scoop the competition. The daily volunteered a lawyer for the Black man, one William Smith, who appeared to advocate for Conley's rights during the trial process.[1046] After Frank's conviction Smith turned on his client, claiming that he had come into new knowledge that caused him to change his mind about Conley.

That "new knowledge" was provided by Smith's

wife, who was, according to Steve Oney's curious assessment, "a student of black dialect."[1047] Mrs. Smith compared and "analyzed" the murder notes, Conley's court testimony, and disputed writings she attributed to Conley, and found that there was a pattern of "compound adjectives" common to all the samples. For instance, the phrase "long tall black," she concluded, linked Conley—*and him alone*—to the authorship of the murder notes.[1048]

But compound adjectives were even more prevalent in the language and rhetoric of Leo Frank himself, who called his former employee and lookout man a "half drunken shiftless negro," and a "shiftless lying unreliable negro." Frank's own attorneys followed suit and loaded on the adjectives in clusters: "Conley is a plain beastly ragged filthy lying nigger"; "Conley is a plain dirty filthy lying drunken and probably lousy nigger"; he is a "dirty black negro"; "this dirty lying low-down negro"; and a "drunken crazed negro."

Compound adjectives also appeared in the *New York Times* coverage of and commentary on the case: "drunken obscene negro jailbird" or "lying licentious negro." In reference to Conley, the *American Israelite* printed multiple conjoined adjectives, calling him "a miserable negro ex-convict." Steve Oney even implicates himself: "Jim was an ignorant drunken lowlife." Nonetheless, Mrs. Smith's unsupportable yet unchallenged "argument" was accepted as legitimate evidence by Governor Slaton in his official commutation order, and subsequently by writers seeking to exonerate Leo M. Frank.[1049]

Governor Slaton and the "Number 2" Debate

Frank's team of appeals lawyers pored over the trial testimony, seeking some angle to free their client from the gallows. With no significant legal options available to them, they resorted to a most desperate ploy. They deduced that a pile of human feces found in the factory's elevator shaft decisively proved that James Conley—and he alone—was the murderer of Mary Phagan.

The National Pencil Company provided a toilet for its employees on the 2nd floor, but Leo Frank's Black employees were barred from using it. There were no toilet facilities in the factory's basement, but Frank required that his Black employees find some place there to relieve themselves upon nature's call. On the morning of the murder, Conley testified, he had relieved himself on the basement floor of the elevator shaft[1050] well before he and Frank used that elevator to carry Mary's body to the basement. A policeman investigating the murder said he observed a "fully formed" pile of feces in the location described by Conley. These are the relevant statements in the *Brief of Evidence*:

> Officer R. M. LASSITER:
>
> …I found a parasol [umbrella] in the bottom of the elevator shaft….I also found a ball of rope twine, small wrapping twine, and also something that looked like a person's stool...[1051]
>
> Officer W. W. ROGERS:

> In the elevator shaft there was some excrement. When we went down on the elevator, the elevator mashed it. You could smell it all around. It looked like the ordinary healthy man's excrement. It looked like somebody had dumped naturally; that was before the elevator came down. When the elevator came down afterwards it smashed it and then we smelled it.[1052]

The theorists of the "shit in the shaft" stool of thought, as the ADL has come to refer to it,[1053] badly needed to nix the elevator as the mode of transferring the body, because Leo Frank possessed the only key to the elevator. They had advanced the theory that Conley committed the assault on the first floor and then pushed the unconscious girl to the basement through a hatchway, whereupon he followed her body down a ladder, raped and strangled her. Had Conley and Frank used the elevator, as Conley claimed, the pile of excrement would have been smashed at *that* time and the policemen would not have seen a "natural" or intact pile of feces—thus, Frank is innocent; Conley, guilty.

That "evidence" is deemed conclusive in most of the pro-Frank accounts of the case and was significant enough for Georgia governor John Slaton to include it as one of the most important reasons for his commutation of Frank's death sentence—making this fecal matter truly a matter of life and death.[1054]

But there are several problems with that malodorous hypothesis, starting with the tail end of Officer Lassiter's statement: "I noticed evidence of dragging *from the elevator* in the basement."[1055] That

fact alone is actually the most potent corroboration of Conley's claim and effectively negates the idea that Mary Phagan's body reached its point of discovery by any other route. Sergeant Dobbs testified that he saw the drag marks that led from the elevator to the location where he found the girl:

> The place where I thought I saw someone dragged was right in front of the elevator, directly back. It began immediately in front of the elevator, right at the bottom of the shaft….It was a continuous trail….The signs of dragging that I saw was right at the bottom of the elevator shaft, on the south side of the elevator. The signs of dragging came right around the elevator straight back east of the ladder, it started east of the ladder. *A man going down the ladder to the rear of the basement would not go in front of [the] elevator where dragging was.*[1056]

The ladder referenced by Sergeant Dobbs was the same one Frank's team alleged Conley used. But there was no blood on the ladder or around the hatchway, or any evidence supporting that theory.[1057]

So the body came by way of the elevator—pushed down the shaft or transported mechanically to the basement. Either way, the tumult of one or the other method in that quiet factory would not have gone unnoticed by Leo Frank, who was in his office just a few feet away. Could Conley, a former elevator operator at the factory, have operated it without Frank's knowledge? Addressing that point is the direct statement of day watchman E.F. Holloway, from the *Brief of Evidence*:

> This power box that runs the elevator is kept locked all the time. I keep it locked. The key is kept in [Frank's] office. I locked it Saturday. I put the key back in the office. I always lock it and unlock it. I didn't go to the factory on Sunday. The key was hanging on the same nail on Monday.[1058]

Of the two people suspected of being present at the murder scene only Frank had access to the key to operate the elevator. Still, beyond that clear rebuttal, the underlying assumptions of the defense's theory are yet unsustainable. For instance, just as with the rest of the dugout basement, the bottom of the shaft was uneven and so the elevator could rest upon one part of the basement dirt floor and not touch another.[1059] An officer reported, "There is a whole lot of trash at the bottom" of the elevator shaft such that some of the garbage would have supported the elevator and prevented it from crushing items beneath it. Oney makes that very point in this passage:

> In the elevator pit itself—which like everything else in the basement was full of waste and debris….To wit: the victim's black umbrella, a big ball of red knitting twine and "a fresh mound of human excrement that looked like someone had dumped naturally." [Officer R. M.] Lassiter *had removed the first two articles but left the third in its place*, and it was this pile that the car carrying Frank and the detectives mashed, unleashing the noxious scent.[1060]

The sequence here is very important, in that a

“big” ball of wrapping twine is an object large and dense enough to easily uphold the weight of an elevator and obstruct its clear path flush to the basement floor. Indeed, wrapped twine is so dense that baseballs are made by tightly wrapping a mile or more of twine to attain their shape and hardness.[1061] Oney inexplicably changes the officers’ descriptions of “wrapping twine” and “rope twine” to “knitting twine,” apparently intending to suggest yarn, which is of much lesser density and easily collapsible by the weight of the elevator.

As with all elevators in the world before they were automated through an Otis Elevator Company patent in 1924, the National Pencil Company elevator was equipped with a manually operated start-stop control. It did not have push buttons for selecting floors: the operator controlled the movement and stopping point of the elevator as it travelled from floor to floor. When it reached the desired level and location, the operator carefully lined the elevator up with the floor and manually opened the exterior doors. The elevator thus could have been stopped anywhere before it reached the notorious pile.

And the task of moving Mary Phagan’s body would have been performed more efficiently if the elevator floor remained two or three feet above the basement floor level, such that the body could be more easily dragged, carried, or rolled from the elevator to the basement floor. Both Conley and Frank would have known that simple loading and unloading technique, having moved heavy freight up and down and around the four floors of the pencil factory, plus the basement. And if items belonging to Mary were hurled down the shaft from Frank’s office floor, it would have been necessary to stop two or three feet above the basement floor in

order to recover and burn those items, as Conley said Frank had planned to do. Officer Rogers himself, the very person whose olfactory aptitude has affected the case so much, said: "The elevator… stops itself when it gets to the bottom. *I don't think it hits the ground*."[1062]

There were also several people in the building during the day of the murder, including two mechanics and a stockboy named Alonzo Mann, who later in the 1980s admitted to committing perjury at the trial. Newt Lee, who discovered the body, claimed in his testimony that he also relieved himself in the basement "toilet," so any of those people could have been the pile's author. Frank himself could have been the "unconscious" depositor of the said feces. According to his own testimony:

> Now, gentlemen, to the best of my recollection…I did not stir out of the inner office; but it is possible that in order to answer a call of nature or to urinate I may have gone to the toilet. *Those are things that a man does unconsciously* and cannot tell how many times nor when he does it.[1063]

Leonard Dinnerstein wrote that "the question of whose waste was observed should have been pursued"[1064]—meaning that, for him, despite the hysteria surrounding the feces, *the most important* question of "whose" deposit it was could not even be answered.[1065]

The Concocted Conley Confessions

Frank's team understood that between the physical evidence and Conley's own meticulous narrative the odds of success were not in their favor. So through his friends and hired operatives Frank "made it known" inside the jail where Conley was being held that he and his legal team were actually *"in the market for a confession from Conley."*[1066] The extent that the Frank team was willing to go to obtain this "evidence" is demonstrated in a handwritten letter sent to Frank from a "colored" man, dated April 20, 1915, and here transcribed exactly as written, with spelling, grammar, and punctuation intact:

> Mr Leo M franks Sir I know en my nervy heart and soul that it was Cannelly that killed the Phagan girl he told me the Day Before that he had no maney and that he had a good to mind kill the first one he met that had any maney no matter how small it was I feel like a Bull he said to me as a little girl passed By as we were talking just out side of Franks place he said to me oh my if I only had her for one half hour I would have [unknown] from the night after Mary was murdered I took several drunks with him he had to one dollar Bills and fifty cents I asked him where he got the maney but he told me to shut up I told him that I was gong to Phila Pa and he said wait for me I will be Braught up for this crime and lynched

And despite the tortured syntax of this twisted testimonial, the envelope in which the letter arrived carried the perfectly spelled inscription, "please give this letter to Mr Frank."[1067] No one accepts this letter as authentic, coming as it did a full two years after the murder. The tell-tale mix of stylistic anomalies is very close in form to the two murder notes, such that the envelope might have more accurately said, "please give this letter *back* to Mr Frank." But there are several examples of alleged confessions falsely attributed to James Conley.

Shortly after Conley's revelations about the murder became public, an insurance salesman named William Mincey[1068] emerged claiming Conley had confessed to him. He was deemed a marquee witness that would clear Leo Frank, but he never showed up at the trial and, according to Harry Golden, he was "an obvious fraud and publicity seeker [who] dealt the defense a staggering blow."[1069]

The *New York Times,* proving itself willing to accept "unsupported negro testimony" *in this instance*, reported that "a negro, believing himself at the point of death, swore that Frank was innocent and that a certain negro had killed the Phagan girl." The report was false, but when it was cruelly relayed to Frank's elderly mother, she "expressed thanks that at last his name had been cleared."[1070]

FRANK'S FRIENDS WILL TRY TO GET CONLEY TO CONFESS. That is the actual first-page headline of the *Atlanta Journal* of November 10, 1913—more than two months *after* the conviction of Leo Frank in an Atlanta court of law. The article elaborated: "Friends of Leo M. Frank asserted…they will endeavor to induce the police to make an effort to secure a confession from the negro."[1071] Who the "friends" are and how this "inducing" would occur

are not disclosed, but the brazen audacity of the act on Frank's behalf is revealing.

Another even more telling headline in the *Atlanta Journal* of March 12, 1914, reads: SLEUTH WILL TRY TO FORCE CONFESSION FROM NEGRO THAT HE AND NOT FRANK SLEW MARY PHAGAN, IT IS SAID. The second paragraph states that

> [Frank's hired detective William J.] Burns has forced confessions from criminals where many others had failed, and it is believed he will use his powers to get the negro to admit that he knows more about the murder…than he told on the witness stand…[1072]

Despite this threat of "enhanced interrogation," Conley was yet willing to meet with Burns, his only condition being that "some Disinterested White Man be present to see that he is given fair treatment."[1073]

Many over-eager writers have alleged that at various times Conley "confessed" to the murder of Mary Phagan, but this is, as Oney writes, only "wishful thinking."[1074] Here are a few traceable instances of made-up tales of Conley confessions:

- Leo Frank's main appeals attorney, Louis Marshall, spread the idea that while in prison Conley "confessed that Frank had nothing to do with the murder."[1075]
- Harry Golden flat out fabricated the claim that Conley "told at least three people he killed Mary Phagan."[1076]
- Harry Simonhoff wishfully claimed

that ten years after Frank's lynching, a convict "confessed to the crime and implicated Jim Conley..."[1077]

- An Anti-Defamation League operative in Atlanta named Dale Schwartz made the preposterous claim that Conley confessed "thousands of times."[1078]

- Robert Frey retreads Burns's phony "Annie Maud Carter letters" in claiming that Conley "confessed the murder to her several times."[1079]

Mr. Smith Goes to Confession

The "confession" given the most weight is the one Conley supposedly made to his "volunteer" attorney, William M. Smith.[1080] Noted Harvard lawyer Alan Dershowitz blustered with certainty in 2004 that Conley admitted to Smith that he had killed Mary Phagan. He wrote, "It seems certain… that the actual killer was James Conley and that his own lawyer knew that to be the case."[1081]

A year after Frank's 1913 trial and Conley's decisive role in convincing Atlanta of Frank's guilt, Smith publicly expressed his belief that his client was in fact the guilty man. He felt it unnecessary to explain how he came to that conclusion, but many Frank partisans have on their own turned Smith's *opinion* into a full-fledged Conley confession. Smith's oddly worded statement was more ambiguous than its over-ambitious interpreters suggest:

> I am sure that investigation by the proper authorities will prove conclusively that the black is the man who is the slayer.[1082]

Smith's statement came in October of 1914, a full year and two months after Frank's conviction. The "proper authorities" had long ago concluded that Frank was the murderer, and their opinion was buttressed—rather embarrassingly—by Frank's own privately hired investigative "authorities" and a series of appeals judges. This alleged about-face by Smith has been presented as a righteous fit of conscience, strong enough to invalidate Conley's attorney-client privilege.[1083] But Smith had his own shady motives and suspicious connections. In the very same milquetoast public statement declaring

his defection to the Frank camp, Smith explains that

> There were several reasons for my undertaking this work, and one of them was my promise to William J. Burns and [Burns detective] Dan S. Lehon that if the Burns agency would help Mrs. Nelms to locate the girls [dtrs. Elois and Beatrice Nelms] or punish their murderer, that I would give more time than I had to work on the Frank matter, and whatever results I was able to get I would contribute to the case.[1084]

The Nelms sisters were friends of Smith's, and they had been abducted, leaving no trace. He appears to have bargained away the legal rights of Conley to gain the assistance of Burns in solving the Nelmses' disappearance. There is no clearer avenue to disbarment than Smith's own admitted motives.

Burns, we are reminded, just a few months before had said that he would prove that Smith's client (James Conley) "is the 'Jack the Ripper' who murdered about twenty negro girls in the last three years," and he went to extraordinary and illegal lengths to fabricate evidence of Conley's guilt.[1085] It was also through Burns that much of Albert Lasker's dirty money flowed into Atlanta to bribe, threaten, and blackmail many witnesses both harmful and helpful to Leo Frank. Smith's client was the main target of Burns's high-octane chicanery, and Smith retaliated with some of the most condemnatory words about Burns's methods, in the March 21, 1914, *Atlanta Constitution*:

> If the papers are correctly quoting William J. Burns, this movie picture, stage lecturing, tangoing sleuth,

> following his usual methods of playing to the galleries, he must prove not only a disappointment to his employers, but a downright injury to the cause in which he was hired, and for which, I presume, he is being paid….It ought to be to the everlasting shame and disgrace of William J. Burns should he come here to perform a high service for truth's sake and sacrifice it upon the altar of his desire for publicity. This is no time for bombast and braggartry….For once give us facts, give us light, give us truth and eliminate the advertising program. Lest you crucify where you seek to save. — William M. Smith[1086]

Burns yet got the better of Smith. For several months Smith had employed the services of detective Carleton Tedder, with whom Smith no doubt had shared many intimate and confidential details of the case. Tedder was later revealed to have been a planted mole of the William J. Burns Agency![1087] Though Tedder was later indicted for a host of unethical operations on Frank's behalf, it might easily be surmised that the data gathered in Burns's slimy operation were a factor in Smith's incredible pivot against his own client.

Smith's turnabout is all the more shocking when one examines his strident anti-Frank position earlier in the case. He blasted the defendant in a very public way. Comparing his own client's behavior with that of Leo Frank, Smith said:

> He is not skulking coward-like behind the protection of iron bars, nor have his lips been sealed with tomb-like silence, until he can spring suddenly in a court, a well-

> prepared statement, which the state has no opportunity to investigate and disprove. Conley allows himself to be grilled, cross-examined and unceasingly questioned by the representatives of the state. He is talking and talking now. Conley says to the state of Georgia, here is my story, investigate it, sift it, and prove it a lie, if you can.

And Smith, here in the midst of Frank's trial in July 1913, refers unflatteringly to the very cabal that he joined a year later:

> [Prosecutor Dorsey] is fighting brains, money and influence. I know that he is standing by what he thinks right, and with constant threats thrown at him that they will defeat him at the next election and with every handicap thrown in his way in the discharge of his duty in prosecuting a white man who has wealth and influence. It is the supreme test of a man's good character, and I glory in the fact that Hugh Dorsey has those high and honorable traits of his good father and mother that enables him to know the right, and knowing the right, to dare to do it.[1088]

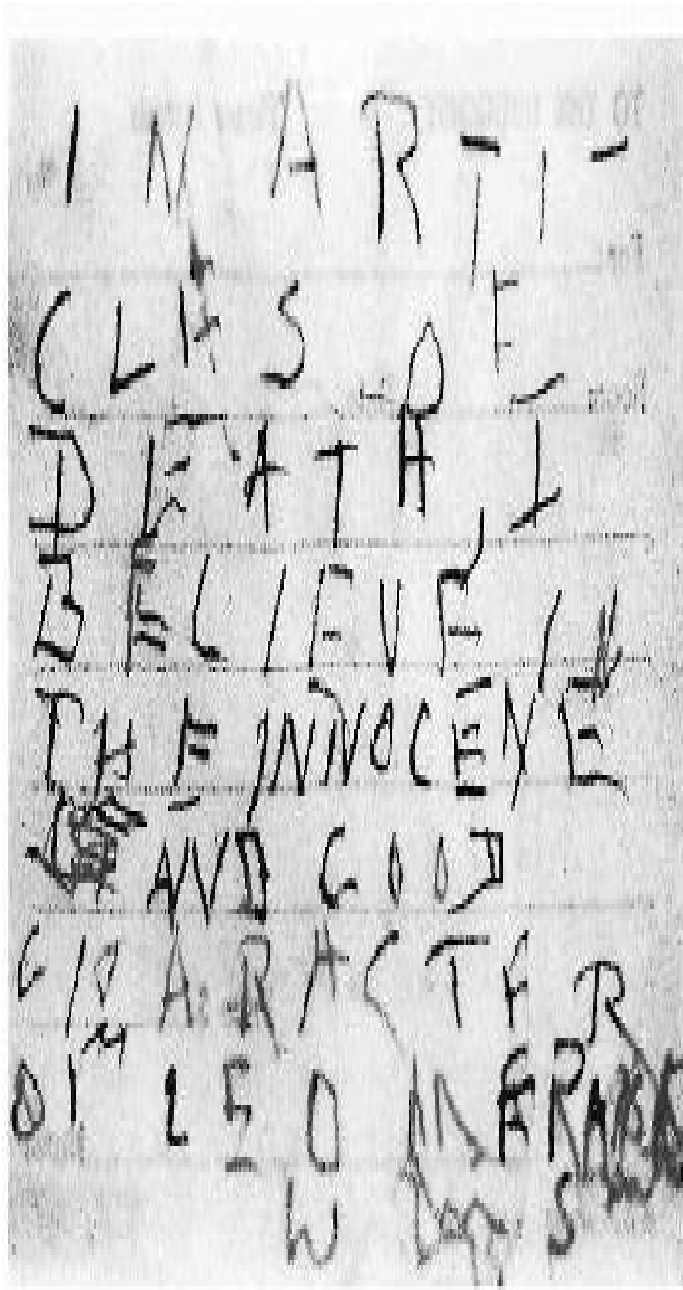
It is hard to imagine a white man confronting another on behalf of "a negro" in a more brutally direct way. Smith came to this firm belief in Frank's guilt only after thoroughly vetting Conley's story. It must be remembered that Smith was sent to Conley not as a sympathetic defender of the Black man's civil rights, but as a hired mercenary of Atlanta's corporate elite. The *Atlanta Georgian*, the *pro-Frank*

Hearst newspaper, had paid Smith's meager fee to represent the destitute Black man, the paper being motivated by no other reason than to secure inside "exclusives."[1089] In that duplicitous role Smith attempted to get the steadfast Conley to change details of his account and even undertook a number of underhanded efforts to trick his own client. He arranged for a police officer to sneak into a crawl space over Conley's cell to eavesdrop on him while he was speaking with his visiting wife. But Conley spotted the clumsy intruder, foiling that plot. Smith tried then to deceive Conley into giving him a sample of his fingerprints, presumably so that he could try to match them with other murder scene evidence. In each of these incidents Conley became suspicious and overcame the scheming of *his own lawyer*.[1090] Ultimately, Smith became a true and very public believer in the state's case against Leo Frank.

Little is known about the actual arrangement Smith had with the *Georgian*, but after Frank's disastrous trial William Randolph Hearst, one of the world's richest men, became personally involved in Frank's crusade for redemption, and between all those incredibly powerful forces Smith succumbed to the reality that he might never work as an attorney again—ever.

The ultimate judgment of his character occurred three years after Frank's lynching when in 1918 Smith went to New York and *"accepted a job with the William Burns Detective Agency,"* the dead end, graveyard gig for the quintessential shyster.[1091] William Smith said and wrote no more on the Leo Frank case until his very last day on earth in 1949. On his deathbed he was claimed to have scrawled this statement:

IN ARTICLES OF DEATH, I BELIEVE IN THE INNOCENCE AND GOOD CHARACTER OF LEO M. FRANK.



The script shows that the writer is in deep

distress. Yet someone of Frank's agents seems to have prevailed upon a dying Smith to address the Leo Frank case. Smith was alive and well in the 35 years between his abandonment of his Black client in 1914 and his death in 1949, but he refused to offer any details about the case in all that time. That fact alone raises real concerns about not only the circumstances surrounding his purported last words but exactly who compelled him to make such a statement at that critical moment.[1092]

The final word on the subject of alleged confessions of James Conley ought to be the most convincing, as it comes from one of Leo Frank's original trial attorneys. Leonard Haas was asked about that topic in 1965 by a hopeful Harry Golden for his book on the case, *A Little Girl Is Dead*, and he responded: "I know nothing…of any alleged confession by Conley…"[1093]

Minola McKnight & The Leo Frank Confession

Her first name is Minola. She is a colored woman.

—Leo Frank

James Conley never confessed to killing Mary Phagan. But there *is* a confession on record that contains far more substance than any of those attributed to Conley. It was a confession that Leo Frank made himself in the privacy of his own home to his own wife. It came to public notice by way of the Black cook employed in Frank's home.

At twenty years old Minola McKnight might today be in college or have her own business, but in 1913 she had already been working for two years as a servant in the Jewish household of Leo Frank, who lived with his wife and her parents at their home. As she put it at the trial, "I work for Mrs. Selig. I cook for her."[1094]

The young woman swore in an affidavit that on Sunday, April 27, the morning after the murder, she had overheard Lucille Frank tell her mother that Leo had admitted to murdering Mary Phagan. Lucille revealed that her distraught husband had been drinking heavily and threatening to commit suicide. In the shocking affidavit McKnight also confirmed that Lucille had refused to visit her husband in jail for at least two weeks,[1095] adding to the public's speculation that the suspect's own wife believed him to be guilty. Moreover, Minola

McKnight strongly suggested that she had been bribed with extra pay to keep those facts from investigators.

Here is the original affidavit McKnight swore out on June 3, 1913 (about five weeks after the murder), in the presence of her attorney. The detail of her recollection is significant:[1096]

> [….] Sunday, Miss Lucile [Frank's wife] said to Mrs. Selig [Lucille Frank's mother] that Mr. Frank didn't rest so good Saturday night; she said he was drunk and wouldn't let her sleep with him, and she said she slept on the floor on the rug by the bed because Mr. Frank was drinking. Miss Lucile said Sunday that Mr. Frank told her Saturday night that he was in trouble, and that he didn't know the reason why he would murder, and he told his wife to get his pistol and let him kill himself. I heard Miss Lucile say that to Mrs. Selig, and it got away with Mrs. Selig [affected her] mighty bad; she didn't know what to think. I haven't heard Miss Lucile say whether she believed it or not.
>
> I don't know why Mrs. Frank didn't come to see her husband [in jail], but it was a pretty good while before she would come to see him, maybe two weeks. She would tell me, "Wasn't it mighty bad that he was locked up," she would say, "Minola, I don't know what I am going to do."
>
> When I left home to go to the solicitor general's office, they told me to mind how I talked. They pay me $3.50 a week,

> but last week they paid me $4.00, and one week she paid me $6.50. Up to the time of the murder I was getting $3.50 a week and the week right after the murder I don't remember how much she paid me, and the next week they paid me $3.50, and the next week they paid me $6.50, and the next week they paid me $4.00 and the next week they paid me $4.00. One week, I don't remember which one, Mrs. Selig gave me $5, but it wasn't for my work, and they didn't tell me what it was for, she just said, "Here is $5, Minola." I understood that it was a tip for me to keep quiet. They would tell me to mind how I talked and Miss Lucile gave me a hat.

The notary then questioned her:

> Q. "Is that [the money] the reason you didn't tell the solicitor yesterday all about this, that Miss Lucile and the others had told you not to say anything about what happened at home there?"
>
> A. "Yes, sir."
>
> Q. "Is that true?"
>
> A. "Yes, sir."
>
> Q. "And that's the reason you would rather have been locked up last night than tell?"
>
> A. "Yes, sir."

> Q. "Has Mr. Pickett or Mr. Cravens [both connected to Albert McKnight's place of employment] or Mr. Campbell [police det.] or myself influenced you in any way or threatened you in any way to make this statement?"
>
> A. "No, sir."
>
> Q. "You make it of your own free will and accord in their presence and in the presence of Mr. Gordon, your attorney?"
>
> A. "Yes, sir."
>
> (Signed) MINOLA McKNIGHT.
>
> Sworn to and subscribed before me, this 3d day of June, 1913.
>
> (Signed) G. C. FEBRUARY, Notary public, Fulton County, Ga.

McKnight's sworn affidavit is, in fact, the strongest evidence of any confession in the case. She soon thereafter retracted her statement under highly suspicious circumstances, and turned on the police:

> They tried to get me to say that Mr. Frank would not allow his wife to sleep that night and that he told her to get up and get his gun and let him kill himself, and that he made her get out of bed. They had my husband there to bulldoze me, claiming that I had told him that. I had never told him anything of the kind.[1097]

Here, she is suggesting that she had been coerced by the Atlanta police into making those claims, but Mrs. McKnight's retraction did not include any details of how her elaborate crime of perjury came to be.[1098] Her revelation, however, cannot be easily dismissed. Black cooks and maids working in white households from slavery on forward vigilantly listened to the conversations of their employers often as a matter of life and death. It is through those conversations that Blacks heard of plans to sell slaves and slave children, plans to whip or kill another slave, plans of Klan activity, or plans of any other actions by whites that might affect the Black community. Lynching plans might first be revealed in the homes of white planners, and it was the maids and "help" feigning ignorance who were positioned best to give advance warning to Black targets.[1099]

In fact, Minola McKnight *did* fully intend to keep this information concealed. She revealed it only to her husband Albert, who from time to time visited his wife and did odd jobs in the Frank household. It was Albert McKnight who revealed the details of his wife's story at his workplace, and it was *Albert's* employers who then notified police. The police confronted Minola, leading to the extraordinary affidavit.[1100]

More telling, the Seligs and the Franks, when faced with their "negro servant" publicly outing them in such a damaging way, chose to keep the woman on as their employee! One must question how such a devastating betrayal could be so easily swept under the rug. In effect, she confirmed all that James Conley had told of Frank's hand in Mary Phagan's demise. Far less of an offense had earned a multitude of Blacks early graves, yet McKnight reported for work at the Selig residence the very

next day.

One might accurately surmise that a fired Minola—one with an excellent memory for detail and nothing to lose—could do far more damage to Frank's alibi than an employed and better-paid Minola. No servant would have hesitated to tell every negative thing she knew about the Seligs, the Franks, their relatives and visitors, their B'nai B'rith conversations, their drinking habits, their racial and religious attitudes, their gossip, and far more, given the condescending attitude of Mrs. Selig when she testified in court about her wage-paying habits:

> I have never raised Minola's wages one penny since she has been with me….Minola was paid $3.50 a week. I advanced her a week's wages. I don't know what week that was. I didn't pay her anything the next week. The first week I gave her $5.00 and told her to give me the change. She brought $1.00 the next morning, and told me she kept 50 cents which I deducted the next week. I think Mrs. Frank gave her a hat. I don't know when that was. Mrs. Frank has never given her any money to my knowledge.[1101]

Clearly, the purchase of Minola's retraction, further securing her silence, would have been Leo Frank's only option.

Another fact of interest that lends support to the veracity of Minola's original story is that her tale would be legally classed as simple hearsay. As truthful as she seems to be, her account could not be used as evidence, and as a "negro" woman in the Jim Crow South she would be all but ignored in any

decision involving the fate of a white man. So the question is, why would the police use *her* to create an elaborate fiction for such a nominal legal result?

If the police or prosecutors were trying to frame Leo Frank, as has been charged, and they for some reason chose a Black maid, would not they give Minola a far stronger story to tell? Why the circuitous route—through Mrs. Frank, to Minola's husband, to his employers, and then to the police—only to tell an inconclusive, legally unusable tale? Why wouldn't they just have her say, "I heard Mr. Frank say he killed the girl," or "I washed the blood from his clothes," or "he gave me the girl's purse to hide," or simply use her to plant damning evidence in Frank's house—something that would have true legal weight? Police had many, many opportunities to frame Leo Frank if that were their intention, and Minola's story would have been far down the list of effective options.

In the end, Minola McKnight's original story was almost certainly true as she told it, and it remains the best evidence of a confession to the murder of Mary Phagan. Ultimately though, Minola may have had to pay for betraying the trust of her white master. In April of 1914, her face was cut by an assailant whom she refused to identify, according to reports, leaving her alive but injured with a 5-inch wound.[1102]

Judge Roan's Doubts?[1103]

On October 31, 1913, two months after the guilty verdict ended the original trial, Judge Leonard S. Roan denied Frank's motion for a new trial, and in doing so he commented:

> I am not convinced of the guilt or innocence of the defendant, but I do not have to be convinced. The jury was convinced and that was enough.[1104]

Those 28 words from the presiding judge have been taken by Frank's defenders as "proof" that the judge believed Frank to be innocent. In truth, Judge Roan was carefully expressing his obligatory judicial impartiality. Had he expressed an opinion—one way or the other—he would have been committing an error that each side could use as grounds to appeal the verdict. More indicative of Roan's actual opinion of the jury's decision was his conferring upon Frank the severest possible penalty—death by hanging. Georgia law gave him the clear option to impose a lighter sentence or even to vacate the conviction or declare a mistrial. But in the very moment he was making that much-discussed statement, he was officially denying Frank a new trial. Nevertheless, Frank and his supporters immediately latched on to the judge's words (not his *sentence* or his *denial of a new trial*) as a form of vindication.

Over the years Judge Roan's name has been attached to a slew of other exoneration falsehoods. Some claim that during an impromptu meeting in the judge's chambers with the defense counsel, Judge Roan is alleged to have said: "If Christ and his angels came down here and showed this jury

that Frank was innocent, it would bring him in guilty."[1105] And though the tale has been liberally disseminated, the original source is dubious, thirdhand hearsay. Indeed, Frank's attorney Luther Rosser, who was said to be in attendance when the alleged words were uttered, never mentioned the remark, which to a defense or appeals attorney—and to the public relations campaign that soon commenced—would have been a godsend.

More than a year after the trial, Roan's "sentiments" were revived once again when Frank's lawyers alleged that the judge had confessed in a letter his ambivalence about the Frank verdict and his belief that Frank should have a new trial. Roan died of cancer in a Massachusetts hospital in March of 1915, and the letter remained in the possession of Leo Frank's attorneys and was not revealed to the public *or to the Roan family* for more than two months after his death. Here is that November 29, 1914, letter addressed to Luther Rosser's law firm, Rosser & Brandon, and attorney Reuben Arnold:

> Gentlemen:—
>
> After considering your communication, asking that I recommend executive clemency in the punishment of Leo M. Frank I wish to say, that at the proper time, I shall ask the Prison Commission to recommend, and the Governor to commute Frank's sentence to life imprisonment. This, however, I will not do until the defendant's application shall have been filed and the Governor and Prison Commission shall have had opportunity to study the record in the case.

It is possible that I showed undue deference to the opinion of the jury in this case, when I allowed their verdict to stand. They said by their verdict that they had found the truth. I was still in a state of uncertainty, and so expressed myself. My search for the truth, though diligent and earnest, had not been so successful. In the exercise of judicial discretion, restricted and limited, according to my interpretation of the decisions of the reviewing courts, I allowed the jury's verdict to remain undisturbed. I had no way of knowing it was erroneous.

After many months of continued deliberation I am still uncertain of Frank's guilt. This state of uncertainty is largely due to the character of the Negro Conley's testimony, by which the verdict was evidently reached.

Therefore I consider this a case in which the chief magistrate of the state should exert every effort in ascertaining the truth. The execution of any person, whose guilt has not been satisfactorily proven to the constituted authorities, is too horrible to contemplate. I do not believe that a person should meet with the extreme penalty of the law until the Court, Jury, and Governor shall all have been satisfied of that person's guilt. Hence, at the proper time, I shall express and enlarge upon these views directly to the Governor and Prison Commission.

> However, if for any cause, I am prevented from doing this, you are at liberty to use this letter at the hearing.
>
> Very truly yours, SEAL L.S. Roan

Many, including members of Roan's family, doubted the authenticity of the letter. According to Mary Phagan Kean's book:

> [Roan family members] indicate that at the time the letter was written, Judge Roan's physical and mental state were critical. They also stated that one of Frank's lawyers went to the sanatorium and it was at this time that the letter was written and signed by Roan. The family also felt that since Judge Roan refused Frank a new trial, the letter causes some questions.[1106]

Roan's own pastor, the Reverend H.C. Emory, said the judge held the opinion that "according to the evidence, Frank was unquestionably guilty."[1107]

Whether the letter was composed by one of Frank's attorneys, as many suspect, or by Roan himself, the text contains the same telltale racism characteristic of the Frank team's defense strategy.[1108] The letter's emphasis on Conley as a "Negro," as well as the suggestion of the inappropriateness of "negro testimony," was the Frank team's trial and public relations strategy—their stock in trade. The language "by which the verdict was evidently reached" raises questions about whether the writer was even at the trial, for certainly Roan would be, literally, the best judge of how the verdict was *evidently* reached. Also, Roan had not shown overt signs of this kind of racism

during the trial,[1109] except of course that he allowed Frank's attorneys to repeatedly verbalize and demonstrate theirs. In fact, Roan allowed much "negro testimony" into the trial—to Leo Frank's obvious frustration.

Judge Roan's words have been liberally misconstrued and even invented by Frank's backers. The Anti-Defamation League attorney Dale Schwartz, for example, made an entirely slanderous assertion in 1989:

> [In] the judge's [Roan's] charge to the jury…he said, "Ladies and gentlemen of the jury, you have heard the testimony of Jim Conley, a nigger in this case. We all know that niggers don't tell the truth unless they're forced to. And you don't have to believe the testimony of this nigger if you don't want to, against the testimony of white witnesses."[1110]

The record shows only three individuals used that kind of vicious racial invective: Leo M. Frank and his two attorneys Luther Rosser and Reuben Arnold—not Judge Roan.

Had Judge Roan composed the letter, it is more likely that he would have allowed its immediate release, given his deteriorating condition and the impending execution of Leo Frank. And he would have released it in the proper judicial forum—certainly not through Frank's attorneys.[1111]

The Frank team was obsessed with the "negro" issue, at the trial and in their subsequent efforts to obtain a new trial for the condemned man. Add to that obsession the extraordinary number of letters and notes in the Leo Frank drama that appear in a suspicious manner and at critical times. The false

Carter letters; Frank's phony time slip for Newt Lee; attorney Henry A. Alexander's photographically altered factory stationery; Det. William J. Burns's many false affidavits; and now, belatedly, Rosser & Brandon's alleged Roan letter—all present a pattern of dubiously sourced documents, all for Leo Frank's benefit. It proves Albert Lasker's comments about the actions of his own hired private eye, William J. Burns:

> [B]y God, he put in as much perjured stuff as the other side did before we finished. I don't say he did, he had [h]is operatives, I guess. You can run that sort of a thing—until it embarrassed our case at times. [1112]

The "Roan letter" was just another such "embarrassment."

Did Frank Convince His Lynchers?

During the 170-mile journey to his own lynching,[1113] it has been claimed, Leo Frank "asserted his innocence so persuasively" that several of his abductors were convinced that they had the wrong man.[1114] Among those trafficking in the false claim was Frank's own attorney Louis Marshall, and author Melissa Fay Greene adds, "One refused to go on with it and urged that Frank be returned to the prison." Leonard Dinnerstein tells a similar tale that Frank had "convinced" his lynchers that "he really had not murdered Mary Phagan."[1115]

Steve Oney wrote in 1985 that "a tense debate broke out. After several sharp exchanges, the faction advocating mercy was overruled." But Oney drops that dramatic claim in his 2003 book *And the Dead Shall Rise*, making no mention of it in his chapter-long account of the lynching. Harry Golden said that during his last hours Frank said nothing.[1116]

Thomas E. Watson openly advocated for Frank's "irregular execution" and would probably have had the best inside sources to gain knowledge of the actions of the lynchers. He says that

> Twice, in the seven-hour automobile ride of 170 miles, [Frank] was asked if he killed Mary Phagan. He did not answer. Not once, in all that long ride to death, did he protest his innocence.[1117]

All evidence refutes the claims that Leo Frank argued on his own behalf in his final ride to Frey's Gin. The only words Frank is believed to have said during that fateful night were his request that his wedding ring be returned to his wife. Frank's

lynchers actually granted and honored Frank's last request, which was carried out immediately and respectfully by his murderers.[1118]

Lost Files & Nonexistent Teeth Marks

Dutch journalist Pierre Van Paassen claimed that in 1922 he had gained access to documents, x-rays, and photos[1119]—not presented at trial—that indicated Mary Phagan had been bitten on her left shoulder and neck before being strangled. In the lengthy medical testimony, there is nothing that refers to any evidence of bite or teeth marks on the victim. Van Paassen concluded, however, that "photos of the teeth marks on her body did not correspond with Leo Frank's set of teeth of which several photos were included." He provided no details of how he could have made this determination, and no subsequent writer, historian, attorney, medical examiner, dentist, or investigator of any kind has made any similar claims.

But Van Paassen's efforts are noteworthy because of the resistance he claims to have encountered when gathering this "information." He says he was thwarted by Frank's Jewish attorney Henry A. Alexander:

> He said…the Jewish community in its entirety still felt nervous about the incident. If I wrote the articles old resentments might be stirred up and, who knows, some of the unknown lynchers might recognize themselves as participants in my description of the lynching. It was better, Mr. Alexander thought, to leave sleeping lions alone. Some local rabbis were drawn into the discussion and they actually pleaded…to stop me from reviving interest in the

> Frank case as this was bound to have evil repercussions on the Jewish community.

Van Paassen further implied that his attempts to gather information from Frank's supporters resulted in a late-night attempt on his own life.

> That someone had blabbed out of school became quite evident when I received a printed warning saying: "Lay off the Frank case if you want to keep healthy." The unsigned warning was reinforced one night or, rather, early one morning when I was driving home. A large automobile drove up alongside of me and forced me into the track of a fast-moving streetcar coming from the opposite direction. My car was demolished, but I escaped without a scratch.[1120]

When in more recent times Harvard attorney Alan Dershowitz attempted to obtain that "evidence," he found that Alexander's Jewish partner, Max Goldstein, had "destroyed" the file, a file that one must then assume *implicated* Leo Frank in—*not cleared* him of—the murder of Mary Phagan.[1121]

Alonzo Mann and the Leo Frank "Pardon"

You can't reverse… an 80-year-old conviction…based on the wavering memory of an 85-year-old man.[1122]

—Steve Oney

In 1915, Gov. John Slaton of Georgia would not deploy the power of his office to pardon Leo Frank, even though he claimed to be convinced of his innocence. He chose to commute Frank's sentence from death to life imprisonment—both being legally appropriate sentences for first-degree murder.

It took sixty-eight years from the time of Slaton's official action before the friends and supporters of the Leo Frank legend reappeared to finish the task in seeking a full pardon for their man. Their first attempt in 1983 was denied by the Georgia State Board of Pardons and Paroles,[1123] but in 1985 the Jewish community began working secretly with the board to prepare what it called a "posthumous pardon" of Leo Frank. The five-member board allowed no other testimony or input from the family of Mary Phagan, James Conley, Hugh Dorsey, or any other interested party. And on March 11, 1986, the body announced its unprecedented action to the public:[1124]

> Without attempting to address the question of guilt or innocence, and in recognition of the State's failure to protect the person of Leo M. Frank and thereby preserve his opportunity for continued legal appeal of his conviction, and in recognition of the State's failure to bring his killers to justice, and as an effort to heal old wounds, the State Board of Pardons and Paroles, in compliance with its Constitutional and statutory authority, hereby grants to Leo M. Frank a Pardon.

The board's action was certainly unprecedented, and possibly illegal, given that the first pardon attempt just three years earlier was rejected explicitly because of a lack of evidence:

> For the Board to grant such a pardon, the innocence of the subject must be shown conclusively. In the Board's opinion, this has not been shown.[1125]

In effect, the Board of Pardons and Paroles flouted its own mandate and ignored its own criteria in order to reverse its decision *without* establishing Frank's innocence. Indeed, the pardon has to do with actions or inactions of the state of Georgia and does not acknowledge any crime for which a pardon is necessary. Further, according to Georgia statutes it is not clear that a dead convicted felon who has not served out his sentence can be pardoned.[1126] The entire episode provides yet another example of the raw force wielded by Jewish organizations to achieve a *symbolic* redemption for one of their own.

Alonzo Mann Pardons Leo Frank

It is the first, failed attempt to exonerate Leo Frank in 1982 that provides a significant new chapter in the analysis of the 1913 murder of Mary Phagan.

Charles Wittenstein, southern counsel for the Anti-Defamation League (ADL), and attorney Dale M. Schwartz, an ADL national board member, spearheaded the campaign and claimed to have found new explosive evidence that finally "solved" the murder of Mary Phagan.[1127] That "evidence" appeared in the person of 83-year-old Alonzo "Lonnie" Mann, who, as a 13-year-old boy, worked at the National Pencil Company factory on the day of the murder as Frank's assistant "office boy."[1128] Mann had reemerged after 69 years of total silence to reveal a remarkable secret that his conscience had finally demanded he hold no longer.

Alonzo Mann (at 83 years)

He was now claiming that on April 26th, 1913,

the day of the murder of Mary Phagan, he had entered the factory and surprised James Conley carrying the girl's body at the foot of the first-floor stairway. Mann said that Conley saw him and threatened his life if he ever told anyone what he had seen. Mann went home and told his parents, who swore him to secrecy about his experience. In fact, Alonzo Mann, who died in 1985, kept his experience quiet long after his parents had died, but with his own death approaching he finally wanted to set the record straight and make his story known.

Alonzo Mann's astonishing revelation was featured in Nashville's *Tennessean* newspaper, which on March 7, 1982, devoted an entire Sunday section to Mann's tale, titled "AN INNOCENT MAN WAS LYNCHED." In its multi-article spread, Alonzo Mann's story was presented as the final resolution, the be-all and end-all—the smoking gun of the Mary Phagan murder case.

The *Tennessean*'s team of crack journalists, led by Jerry Thompson and Robert Sherborne, and its publisher, John Seigenthaler, were assisted by the state librarian and a polygraph technician, and with this single Sunday issue the *Tennessean* set about to accomplish what all of Leo Frank's lawyers, Adolph Ochs's *New York Times*, and William J. Burns's detectives could not—the exoneration of "the Jew" Leo Frank and the conviction of "the real killer," "the negro" James Conley. But despite the *Tennessean*'s pretense of skilled and balanced journalism, there are serious flaws in its promotion and handling of the Alonzo Mann story that call into question the newspaper's very credibility.

And it starts with the *Tennessean* building the false impression that Mann's story had been legally tested, when in fact Mann was never questioned or challenged in any judicial forum. For example, the

paper refers to Mann's passing a "lie detector" test[1129]—and a photo depicts Mann strapped to a polygraph machine—but there is no known recording or transcript of that examination or test results available for scholars to analyze independently. All other documents related to the "pardon" are for some unknown reason considered a "confidential state secret" and "not subject to release under the Open Records Act."[1130]

During the frenzied publicity tour that surrounded the *Tennessean* spread, Mann gave interviews in which he claimed to know Conley's motive and the intimate details of his life. Steve Oney quoted Mann thus:

> I know why he [Conley] had the girl, too. He wanted her money.…Jim Conley was a smart nigrah [sic]. He could talk to you, and he had a personality you would like. But he drank all the time. And he had women in there. He was drinking that morning.[1131]

Tennessean reporters did not ask Mann how he could have known the details of Conley's character and factory practices: for the boy had just been hired April 1, 1913[1132]—and only worked two Saturdays before the murder—yet he spoke of Conley as if the two had had a long-term intimate association.

And the more Alonzo Mann talked about his 69-year-old experience, the less it could be synchronized with the known facts of the case, and, indeed, with his own previous versions of the story. Steve Oney—deemed an "expert" on the case by the Anti-Defamation League—had to conclude that Mann's "confession" was "incredibly dramatic" but

"added little of probative value."[1133]

Alonzo Mann's Unbelievable Beliefs

A closer look at Mann's new testimony justifies Oney's polite rebuff. After many decades of rumination over his role in the episode, the elderly Mann seems to have conflated his own 1913 memories with the many published accounts of the Leo Frank affair to create, in 1982, an impossible scenario. To start, in 1913 Mann testified under oath that "he did not know Mary Phagan *even by sight*." By 1982, Mann was telling a tale of having seen Mary at the factory riding in a little red wagon and laughing along with another girl employee. Nearly 70 years later he now was claiming to have known her both by name and by sight.[1134]

In his 1982 "affidavit," Mann makes the following statement about his appearance at the trial:

> I was nervous and afraid that day. There were crowds in the street who were angry and who were saying that Leo Frank should die. Some were yelling things like, "Kill the Jew!"[1135]

Though this "Kill the Jew" statement has been published many times, *the claim has been thoroughly debunked* and has now been quietly dropped from all the latest "pro-Frank" accounts of the trial—including Oney's "official" 2003 book, the Atlanta Breman Museum's 2008 Leo Frank exhibit, and the 2009 ADL-endorsed PBS docudrama, *The People vs. Leo Frank*. Yet the 83-year-old Alonzo Mann clearly believed that he had experienced the utterances firsthand.

A few months after his reemergence Mann was asked by his own attorney John Jay Hooker to reiterate that experience, and Mann added quite a bit more to the tale:

> When I went to the courthouse, there was at least 500 people in the street; and they were saying to each other, "Kill the Jew. Kill the Jew"….[S]ome had pistols. Some had knives. They were crazy…[1136]

The brandishing of weapons is an embellishment that is unique to Mann's account. Even Frank's lawyers, in all their many appeals, never claimed weapons to be part of the proceedings (and never claimed threats were uttered or expressed). Anti-Defamation League attorney Dale Schwartz quotes his client:

> Lonnie Mann said he was scared to death; people had guns in their back pockets….And when he got in there, Jim Conley was sitting at a table or something and gave him, as he put it, the evil eye and stared him down.[1137]

Conley was not in the courtroom during Mann's testimony on August 12th. Conley had appeared in court the previous week for his own testimony and was returned to his cell at the Fulton County jail. So the alleged "staredown" is another invention of either Mann or his attorney.

Mann said he "did not remember" seeing Wade Campbell, Corinthia Hall, Emma Freeman, Lemmie Quinn, or Mrs. Arthur White, all of whom were present at the factory office on April 26, 1913, the day of the murder. Yet he claims to have seen Conley three separate times—twice more than any

other witness. When Mann arrived at 8:00 a.m., he says he saw Conley "sitting under the stairwell on the first floor of the building."[1138] And later when Mann left "just before noon," he saw Conley "sitting where I had seen him when I came to work: in the darkened area of the stairwell." And yet a third time, when he returned to "catch" Conley carrying the body of Mary Phagan.[1139]

In 1982, Alonzo Mann described his first interaction with Conley on that Saturday:

> He spoke to me. He asked me for a dime to buy a beer. A dime could buy a good-sized beer in those days. I told Jim Conley I didn't have a dime. That was not the truth. I had some money in my pocket, but I had let Conley have a nickel or a dime for beer before. He never paid me back. I didn't like to be around Jim Conley. After I told Conley I didn't have any money I went up the stairs to the second floor where my desk was located in the office of Leo Frank.[1140]

Mann somehow remembers that at that early hour Conley "had obviously already consumed considerable beer." But the specific testimony of one factory visitor named E. K. Graham, who saw Conley, was that "If he was drunk I couldn't notice it…"[1141] And Graham's sighting would have been four hours further into the alleged drinking binge. Ivy Jones saw Conley on that day between one and two o'clock and he swore, "He was not drunk when I saw him."[1142]

Mann's new claim that Conley "had women in there" is a brand-new revelation that has never been suggested by any other witness, not even by

the factory's long-time employees or by his employer, Leo Frank. Mann's disdain for Conley's alleged misbehavior is not shared by the young white women who worked alongside Conley far longer than did Mann. They should have been scared to death of the "vulgar and slovenly negro sweeper," but assistant superintendent Herbert Schiff testified under oath that Conley

> was in the chain-gang two or three times, once he worked on Forsyth Street in front of the building, and then women would come up to me and try to get money to get him out, two or three times. That has happened since he has been working at the factory.[1143]

This is an extraordinary testament to the character of the Black man that Mann and Frank's advocates insisted was universally disliked and feared. These young white women were willing to approach their own employer to seek funds to redeem Conley from a prison chain gang to return him to work *with them* at the factory.

It is the third time Mann saw Conley that is the most troublesome. Mann says he came through the unlocked front door of the factory shortly after noon and spied Conley carrying Mary Phagan's dead or unconscious body. He further speculates: "from the direction [Conley] was headed and the attitude of the body that he was preparing to dump Mary Phagan down the trapdoor," which was at floor level and approximately five feet from where Frank's advocates allege the murder occurred. The *Tennessean* provides an illustration of Conley carrying the body over his right shoulder whilst prying open the hatchway with his left foot and eyeing Mann, who looks on from behind.

If this were the case, one must ask why Conley had lifted the body at all? Lifting 125 pounds of dead weight would be unnecessary for the stated task, and this makes Alonzo Mann's "vision" highly suspect. Even a drunk man would know that dragging an unwieldy load is far, far easier than lifting it—especially when the intention is to move a body to a hole *on the same floor* just 5 feet away, with no intervening obstacles.[1144] Of course, one of the first clues the police detected was the visible drag mark on the basement floor that led from the elevator to the location of the body about 30 feet away.[1145]

Star Witness…for the Prosecution?

Mann makes competing claims that conflict with Frank's longtime theory of the murder. Frank says that Conley laid in wait on the *first floor* for Mary Phagan to descend the stairs after receiving her payment in Frank's second-floor office. Mann is very clear in his signed *Tennessean* affidavit of March 1982 about the location of this horrible crime:

> I am convinced that [Mary Phagan] had left the pay window and was coming down the stairs or had reached the first floor when she met Conley…

But just a few months later, Mann is far less sure of that 1st-floor-murder theory:

> I never thought too much about that. He could have brought her down the steps

> because he was a strong Negro….He must have brought her down the steps. I never thought too much about that part.[1146]

This, of course, is exactly what Frank's supporters did *not* want to hear Mann say, for if Conley were coming from upstairs with the body of Mary Phagan, then he was coming from the presence of Leo Frank, who had just paid Mary in his office. Those who insist that Conley committed the murder have a very small window for their theory to have any merit at all, and it absolutely requires that the assault be as far away from Leo Frank as possible. Any violent scuffle ending in murder could never have occurred on the second floor just outside Frank's office without his clear knowledge or participation. The autopsy revealed that Mary's death was a violent affair that left her with a blackened eye and a gash on the back of her head, with the ultimate cause of her death being strangulation—a lengthy process entailing much struggle, choking, and flailing by the victim. Yet they claim a drunken Conley accomplished the gruesome task noiselessly, presumably in a ninja-like fashion.[1147]

So when Alonzo Mann—the only living witness to the actions on that day—theorizes that Conley "must have brought her down the steps," he essentially explodes the murdered-on-the-first-floor theory and actually does more than any previous witness to implicate Leo Frank as the murderer.[1148] One can only imagine the glee of prosecutors had young Alonzo testified to this in 1913. Mann further falters when he describes Conley's relationship with Frank in precisely the way prosecutors portrayed it: "Mr. Frank just gave him orders, and he carried them out."[1149]

Further verification comes from ADL attorney Dale Schwartz, who confirms and reiterates Mann's account in Howard Simons' book *Jewish Times*: "Lonnie Mann…saw Jim Conley carrying the limp body…*down the steps* and into the main part of the factory, walking toward the chute to the basement."[1150]

Last, the Frank defense actually advanced a theory of the crime that, yet again, is incompatible with Mann's claims. They say that Conley confronted Phagan on the first floor and pushed her to the rear hallway and murdered her there—not in the front vestibule. They say he then threw her down the back steps to the basement and followed later to strangle her and finish her off. The defense's scenario (graphically presented in the August 12, 1913, issue of the *Atlanta Georgian*) is totally inconsistent with what Alonzo Mann now says he witnessed as he came through the factory's front entrance.

Mann Overboard: The Downfall of a Savior

A coalition of Jewish organizations—including the Anti-Defamation League, the American Jewish Committee, and the Atlanta Jewish Federation—arranged for Mann to tell his story in a question-and-answer session that was taped and transcribed on November 10, 1982, in Atlanta in the presence of two members of the Georgia State Board of Pardons and Paroles.

It was not a hearing in any legal sense—there was no swearing in or questioning by adversaries. Instead, the session was arranged with the stated purpose to "preserve for all time the testimony of Alonzo Mann."[1151] But a review of the transcript

reveals several problematic components of the session that undermine Mann's new claims.

First, Mann says he was moved to come forward after reading about 30 pages of Harry Golden's book on the case, *A Little Girl Is Dead*. "I saw there were so many mistakes in there and so many things that wasn't true," he says contemptuously.[1152] But Golden's book is an unashamedly pro-Frank book, and Frank partisans swear by its accuracy. Golden's first thirty pages (and the next 350 pages, for that matter) are true to the standard pro-Frank narrative, and, even so, Mann offers nothing to correct those "so many mistakes."

Mann attempts to explain away his withholding of evidence in 1913 that might have saved Frank's life with the very dubious claim that the police did not ask him "any direct questions about anything important, except what I did. No one asked me anything in regards to that."[1153] Not only is that answer patently untrue—the police had no other purpose in communicating with him except to ask him about the murder, which occurred in a place where he had been only moments before. And as will be shown, investigators interviewed Mann several times about his knowledge of Mary's murder, but Mann withheld evidence, even committing perjury, a serious felony.

As stated, Mann testified at the trial of Leo Frank on August 12, 1913, but provided no useful information about the murder. When asked about that in his 1982 session, his answer is indeed strange: "At that time that was all I knew. I told it all."[1154]

Mann claims that Conley threatened to kill him and that frightened him into silence for 69 years. But in his 1982 retelling of his alleged encounter with Conley he says that immediately after Conley's

death threat,

> I took a couple of steps up, and I saw the door was locked or shut; and I didn't go on up. So I turned around and went out the door and went home.

This is an extremely odd reaction by a person who had just come upon a murder scene, *with the murderer in the process of murdering*. And the "locked or shut" door is altogether new and contradicts all his previous claims. A few minutes later Mann's attorney reminds him that he once told a far more explicit story and then reads to Mann his previously sworn affidavit:

> I turned and took a step or two—possibly three or four steps—up towards the second floor, *but I must have worried about whether the office upstairs was closed*. I did hear some movement upstairs, but I can't be sure who was on the floors above. I [was] fearful that the office might be closed, so I turned back towards Conley. I wanted to get out of there quick. He got to within about 8 feet of me. He reached out as if to put one arm or hand on me. I ran out of the front door and raced away from the building.

The witness confirms, "That is correct." Mann clearly had lost an incredible amount of detail in a matter of a few months, details that must be read to him for him to recall.[1155]

The attorney questioning Mann, John Jay Hooker, is unable to elicit responses from Mann that synchronize with the affidavit. Hooker then takes over the session, providing both questions and

answers on Mann's behalf. He simply reads Mann's previous affidavit "testimony" and then asks him to confirm its veracity. Still, Mann betrays a faulty memory:

> Hooker: "He could have dumped her down the empty elevator shaft."
>
> Mann: "No, he couldn't have if the elevator shaft wasn't—"
>
> Hooker [cutting Mann off in mid-sentence]: "I understand, but the affidavit said he could have dumped her down the elevator shaft…"

Mann answers "No," but the attorney, John Jay Hooker, insists that Mann should answer in the affirmative. [1156]

Attorney Hooker is obsessed with establishing the drunkenness of Conley, and leads Mann into a discussion of that, including this odd exchange where Mann resists committing to Hooker's leading question:

> Hooker: "Was he often drunk on the job?"
>
> Mann: "He was smart. He had a lot of sense, but it was the wrong kind of sense."[1157]

Mann seems to have forgotten the conversation he says he had with Conley about his borrowing money for beer. He said in March 1982 that he had seen Conley "under the steps" and "obviously" drinking. When asked directly in November 1982:

"Did you have a conversation with him?" Mann responded, "No. I just walked right on…"[1158]

The session arranged by the Jewish groups was designed to showcase for the Georgia State Board of Pardons and Paroles their conclusive new evidence proving Leo Frank's innocence, but Alonzo Mann's faulty, erratic, unstable memory produced the opposite effect. The two members of the Board who were present, of the five-member Board, could only have been convinced that Alonzo Mann did not help Frank's supporters sustain their burden of proof. The Board's refusal to grant a posthumous pardon to Leo Frank was inescapable.

Alonzo Mann: Afraid…for 69 Years?

Alonzo Mann is presented in the *Tennessean* as a timid and obedient mama's boy who complied with the wishes of his parents and kept quiet about a murder and watched an innocent white man die for the crime of a "nigrah." He said to the paper in 1982:

> I told my mother what happened, and she says, "Don't say anything about it, and we will wait and see how it comes out." So the next morning they find Mary Phagan and my mother says, "Don't say anything about it because we don't want to get involved in it."

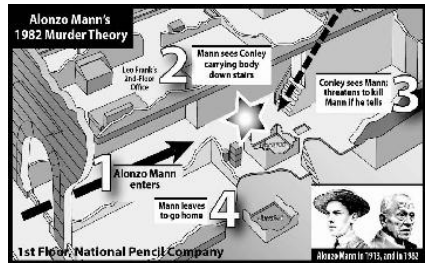
The *Tennessean* writers work hard to create the impression that Mann was gripped by fear, which prevented him from revealing the "truth" that only he knew. The article titled "TERRIFIED BOY FEARED

FOR HIS LIFE," by Frank Ritter, reinforces that idea, characterizing Mann as "paralyzed," "fearful," "terrified."

In the *Tennessean*'s deliberately provocative racial imagery, "Conley held her in a bear hug, his powerful arms wrapped tightly around her adolescent waist." The writers would like readers to accept that Alonzo Mann's white parents allowed a rapacious Black murderer to return to the scene of the crime *where their own child was employed*, along with scores of white women and adolescent girls.

Mann is goaded by the *Tennessean* to elaborate even further on that absurd scenario when he makes the pronouncement, "From then on, whenever I was at work I steered clear of Jim Conley. I kept away from him and he did the same."[1159] Thus, Mann's parents allowed him to go back *several times* to a place where a child murderer was known to lurk—a murderer who had knowledge that Mann was the *only* witness to his lynchable crime.

Whilst this fear seemed to silence Alonzo Mann, the *young women* of the factory who had accepted Frank's suggestion that "a negro" was the murderer evinced no such fear as they confronted Conley at work at the factory to accuse him of the crime to his face. Factory worker Mary Pirk testified that she had directly accused Conley of the crime, whereupon "He took his broom and walked right out of the office and I have never seen him since," she recalled.[1160]



Alonzo Mann's Immaculate Conversation with Leo Frank

Yet another inconsistent part of Mann's 1982 story is his stating that on the day of the murder he had had a conversation with Leo Frank in which he told his boss that he wanted to leave at 11:30 on the morning of the murder:

> Mr. Frank agreed for me to leave at that time. I told him I would return to the office and complete my filing work later in the afternoon. He said he expected he would still be there.[1161]

If true, Mann's statement makes Leo Frank a party to a conversation that his lawyers desperately needed and could have used to prove that Frank's encounter with Mary Phagan *was not* at all premeditated. Georgia state prosecutor Hugh Dorsey maintained that Frank had hired Conley on Friday to guard the door for his anticipated encounter with Mary Phagan on Saturday. Frank's own day watchman E.F. Holloway testified that when he left the factory at 11:45 on Saturday morning, "Mr. Frank said to me 'You can go ahead if you want to; *we will all go at noon*.'"[1162] This

testimony helped the prosecution establish that Frank was trying to clear the building for his intended sexual rendezvous that afternoon. So if Frank had *expected* Alonzo Mann to return during the afternoon, then Frank's attorneys could have more successfully, even convincingly, undermined the prosecution's attempt to establish Frank's motive.

Leo Frank recalls every detail of his movements on that day but not this exculpatory conversation with Mann, and Mann never mentioned it at the time when it would have been most useful. Even if he were "afraid" of Jim Conley, as he claims, his testimony of *this* conversation between boss and employee would have had no bearing on his "commitment" to Conley to remain quiet. Indeed, Frank's attorneys were so desperate for such evidence that they actually invented a similar scenario, which they added to Frank's version of events. During the coroner's inquest, ten days after the murder, Frank suddenly "remembered" that his foreman Lemmie Quinn had "visited" him in the factory at the exact moment of the murder! Incredibly, Quinn's memory returned to him at the very same time.[1163] That was almost certainly conspiratorial perjury, but there can be no question that if the conversation between Frank and Mann had occurred, Frank's attorneys would unhesitatingly have had little Lonnie confirm it on the witness stand.

Further, Mann and the *Tennessean* would like us to believe that on a Saturday and a holiday a 13-year-old boy who has the option of going to a movie, attending a parade, or returning to a factory to "complete my filing work"—that his boss does not recall or expect him to do—would choose the latter.

Mann v. Frank: Irreconcilable Differences

What Leo Frank *did* remember about Alonzo's presence on that fateful day creates an impossible dilemma for Alonzo Mann. The most consistent part of Mann's 1913 story is that he left the factory at 11:30 a.m. He says this to investigators on three separate occasions in May 1913 and then again a fourth time while under oath at Leo Frank's trial. But the defendant himself placed the time a full half hour later. Police officer W.W. Rogers investigated the murder and directly quoted Frank on Mann's departure time:

> My stenographer left about twelve o'clock, and *a few minutes after she left the office boy left* and Mary came in and got her money and left.[1164]

Hattie Hall is the stenographer in question and she testified at the trial that "When I pushed the clock it was 2 minutes past 12."[1165] And Frank emphatically concurred that "Miss Hattie Hall…is an unimpeached and unimpeachable witness and her testimony must stand."[1166]

Alonzo Mann (at 13)

And here is where it gets impossibly tight for

Alonzo Mann's 1982 claims, 69 years after Frank's murder conviction. Frank estimated that Mary Phagan left his office with her pay envelope after 12:07 p.m. If we are to believe Leo Frank and his carefully scripted (but often-changing) timeline, Mary was then murdered by James Conley at about 12:10.[1167]

If Frank's timeline is correct—and he was emphatic that it is[1168]—then Mann must have accomplished an impossible 16-to-19-minute sequence of activities within a 7-minute window (between 12:02 and 12:09 p.m.), before returning to catch "Jim Conley with a girl in his arm..." Alonzo Mann's 1982 interrogators at the *Tennessean* obviously never knew that in 1913 Mann had told investigators several versions of his activities after he left the factory.

The day after Mary's body was discovered, Frank hired the Pinkerton Agency to conduct the investigation on behalf of the National Pencil Company,[1169] and subsequently the Pinkertons interviewed Alonzo Mann three separate times (May 6th, 7th, and 9th). Within a span of four days Alonzo Mann gave three different stories about events that occurred less than two weeks before. And those stories conflict with his testimony at trial four months later. And both the Pinkerton report and his trial testimony conflict with his latest tale in 1982. Why *Mann* was not more thoroughly investigated, given his differing statements, and why Frank's attorneys seem to have kept Mann's blatant inconsistencies out of the public eye have yet to be explored. Certainly, other employees were arrested or held on far, far less, or for no suspicious behavior at all.

In his May 7, 1913, interview Mann is quoted using the language "I do not remember" (or similar

phrase) nine times. In 1982, he settled on this version:

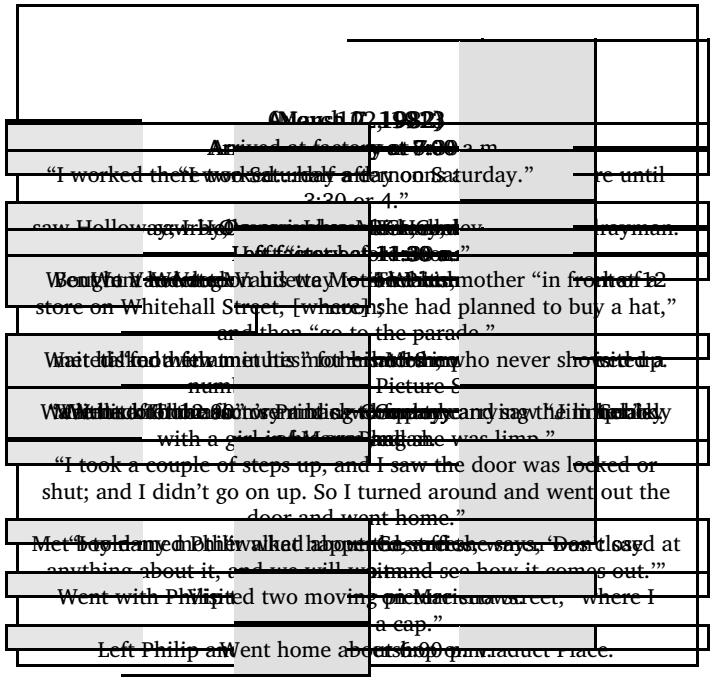
> I was supposed to meet my mother that day about noon and go to the Confederate Memorial Day parade. When I left the premises, just before noon…

His 12 noon meeting with his mother at the Vaudette Motion Picture Theater remains throughout all three Pinkerton interviews. But Alonzo's companion "Philip" disappears in the first and third versions of his story, as does the visit to the barbershop and haberdashery; and his brother gets lost in his third version of events. In the first Pinkerton interview Mann says he visited "a number of moving picture shows," but in the third he says he visited just two. Mann mentioned his visit to Thomason's Printing Company in only two of the three interviews, and he told Pinkerton investigators in the initial interview that he watched the parade, but does not mention it again in the second and third interviews or at trial. After 69 years the reason for the 12 noon meeting changes: at first the reason for meeting his mother was to buy a cap for himself, but in 1982 it was his mother's need for a hat that he remembers.

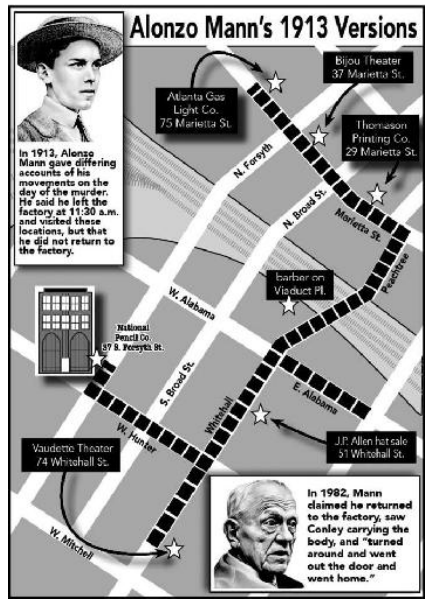
Below is a chart comparing the differing statements of Alonzo Mann. One must remember the effort that was made at the Frank trial to account for every minute and every movement of those in and around the factory on the day of the murder. This makes the inconsistencies in Mann's statements within a few days of the murder all the more perplexing.

Alonzo Mann: Then & Now

Mann's statement


March 17, 1913
Arrived at factory at 7:00 a.m.
"I worked then
Saturday afternoon Saturday."
3:30 or 4."
saw Holloway
Left "at
Went home
Went with Phil
Met
anything about it, and we will wait and see how it comes out.'"
Left Philip at
Went home about
"I took a couple of steps up, and I saw the door was locked or shut; and I didn't go on up. So I turned around and went out the door and went home."

Despite the boy's many conflicting statements, investigators apparently never questioned Alonzo Mann's mother, brother, friend, barber, haberdasher, or theater staff. In a case where minutes and seconds were so significant and critical and were argued over in court, in the press, and by historians hence, it is an incredible oversight for the original investigators to have not followed up on the discrepancies of Mann's many stories, and an even greater blunder for those who promote Alonzo Mann as having solved the murder of Mary Phagan.


Alonzo Mann's 1913 Versions
In 1913, Alonzo Mann gave differing accounts of his movements on the day of the murder. He said he left the factory at 11:30 a.m. and visited these locations, but that he did not return to the factory.
Atlanta Gas Light Co. 75 Marietta St.
Bijou Theater 37 Marietta St.
Thomason Printing Co. 29 Marietta St.
N. Forsyth
N. Broad St.
Marietta St.
Pedestrian
Barber on Viaduct Pl.
W. Alabama
National Pencil Co. 57 S. Forsyth St.
S. Broad St.
Whitehall
E. Alabama
W. Hunter
J.P. Allen hat sale 51 Whitehall St.
Vaudette Theater 74 Whitehall St.
W. Mitchell
In 1982, Mann claimed he returned to the factory, saw Conley carrying the body, and "turned around and went out the door and went home."

The Cunning Leo Frank and the Disappearing Alonzo Mann

Q. Where did she go when she left the office?
A. I heard her footsteps dying away.[1170]

–Leo Frank's sworn testimony before the coroner's inquest

In his carefully scripted, lawyer-reviewed statement about his own movements on the day of the murder, Leo Frank does not account for the departure of Alonzo Mann! Right after the murder Frank tells investigators that Mann left the factory *after* Hattie Hall left at 12:02 p.m., and he describes the arrivals and departures of every employee he had come in contact with on April 26th (except James Conley, of course). But at Frank's own trial, Alonzo's departure is unaccounted for, and no one —not the police, prosecutors, or press—seems to have noticed.[1171]

And, further, Frank let slip some mysterious

language on the witness stand that suggests a new role for Alonzo Mann. On page 182 of the *Brief of Evidence* Frank recounts his actions just moments before Mary Phagan arrived:

> Miss Hall finished the work and started to leave when the 12 o'clock whistle blew, she left the office and returned, it look[ed] to me, almost immediately, calling into my office that she had forgotten something, and then she left for good [12:02 p.m.]. Then I started in, we transcribed, first we enter all orders into the house order book (Defendant's Exhibit 12), all these orders which Miss Hall had acknowledged, I entered in that book...

Leo Frank twice used the term "we" in reference to work he said was performed right before Mary Phagan arrived at 12:07 by his accounting. He used "we" before he reverted to using the first-person singular pronoun "I."[1172]

Later, Frank and his lawyers produced a timeline in which Mann's presence is acknowledged, but his departure time is unaccounted for.[1173] This may have been a calculated oversight: Frank and his team of lawyers wanted to give the jurors the impression of a bustling and well-trafficked office, and imply that Frank was not alone when Mary came to collect her pay. Frank makes other subtle suggestions of an active factory workday, even though he and Mary were now the only ones known to be on the second floor. Frank testified to the coroner about Mary's visit:

> this little girl who was killed came up

> and got her envelope. I didn't see or hear any one with her. I didn't hear her speak to *any one who might have been outside*.[1174]

Who "might have been outside" is not disclosed, but by Leo Frank's own account it "might have been" Alonzo Mann.

These incredible conflicts of testimonies concerning the whereabouts of Alonzo Mann vis-à-vis his employer so close to the time of the murder should have piqued the interest and the attention of the state prosecutors, but those differing accounts have never been fully examined. In light of these unresolved scenarios, the "nervousness and trepidation, fear and anxiety" Mann had exhibited during his appearance at the Leo Frank trial may very well have indicated a covert, unspoken role on the day of the murder.

The *Tennessean* Joins the Frank Propaganda Team

From the beginning the advocates for Leo Frank have had the benefit of a cooperative press to bolster their cause. The *New York Times* under Adolph Ochs almost singlehandedly repackaged Frank's depravity and sold it to the entire world as Frank's martyrdom. In 1982, the Nashville *Tennessean* under John Seigenthaler stepped forth to fill that crusading role to declare Frank's innocence in a crime that had troubled the Jewish world for 69 years.

THE TENNESSEAN Special News Section

An Innocent Man Was Lynched

JUSTICE BETRAYED

The *Tennessean* "reporters" borrowed heavily from the piles of pro-Frank perjuries generated by the nefarious alliance of the William J. Burns Detective Agency and Adolph Ochs's *New York Times*. In one of the sloppiest pieces of journalism on record, the *Tennessean* recycled so many of those long-dead myths and lies that it requires a chart to catalogue just a few of them:

Nashville Tennessean on Trial: Falsehoods and Fictions in the March 7, 1982, Edition

FALSE: "Griffith's movie, The Birth of a Nation, which debuted in 1915, was the impetus for the KKK reemergence.

FALSE: "Although these [anti-Semitic] events gave the Anti-Defamation League a powerful promotional symbol, the ADL, a division of the B'nai B'rith, had already been formed in Chicago before the murder of Mary Phagan.

FALSE: "The Knights of Mary Phagan were [a] secret group [whose] avowed purpose was to avenge Mary Phagan's death."

FALSE: "Frank's lynching shocked the Jews [and] caused them to change their attitudes toward the South."

FALSE: "Newspapers throughout the country alerted Jews throughout the world that Frank's religion was a substantive factor in the case.... [T]he jury was deliberating in a mob atmosphere with crowds jamming the streets shouting anti-Semitic slurs.... [A] wave of rabid anti-Semitism engulfed Georgia [and there was] mounting sentiment against Jews... [The trial] was conducted in a frenzied environment with men's shouts of 'Kill the Jew!'.... [the] trial surrounded by mob hysteria and violent anti-Jewish sentiment....Outside the courtroom the gang had shouted, 'Hang the Jew!'....fires of anti-Semitism... swept Atlanta during the trial....During the trial...there were frequent catcalls of 'Kill the Jew!'"

FALSE: "Most Georgians were "appalled" [and] incensed [by] the lynching [of Frank]."

FALSE: "Many Jews left the South after the lynching."

FALSE: "Blacks [in Georgia] were "appalled" [and] incensed [by] the lynching [of Frank]."

FALSE: "Many Jews left the South after the lynching."

THE Jews now control most of Atlanta's business, which is fact daily by, during, and after the Leo Frank Affair (1913 to 1915). The sidewalks were patrolled by Jewish men and children. The Jewish faithful were told to stay out of the state for their safety.

THE ADL and B'nai B'rith began its opposition to the Dyer Anti-Lynching Bill in 1918. There is no record of the ADL's involvement in this anti-lynching effort. ADL literature appears to be concerned with but one lynching in American history—that of Leo Frank. Frank's attorney Louis Marshall, head of the American Jewish Committee at the time, openly opposed the Dyer Bill and successfully worked to destroy it.

THE Conley case was a turning point in Atlanta's history. [Conley] confessed to the murder and implicated Frank, saying that he had helped Frank dispose of the body. Conley never "confessed."

THE Atlanta mob roamed the streets of Atlanta for days looking for Jews. This description of the mob is taken from the 1937 book *Behind the Mask of Chivalry*: "Armed with shotguns, rifles, pistols and clubs, they roamed the streets, looking for Negroes to beat and kill." In fact, the Atlanta Constitution reported that 1,200 "noisy" demonstrators were at the governor's residence after he commuted Frank's sentence to life in prison, and they were quickly dispersed by guards. "Many arrests" were made, but none of the properties of the National Pencil Company, its management, Leo Frank, his family, or his well-known Jewish supporters were ever touched or even threatened.

THE

There is no mention of it by Rosser or any other member of Frank's massive legal team.

~~FALSE. Rosser knew of the allegation and investigated it. He found it to be unfounded. See section herein titled "Leo Frank's 'Pardon' & Crucifixion."~~

those "letters" and a host of other criminal operations.

FALSE (right out) "a German fairy tale," and Frank was a Georgian. In fact, the phrase in the note was a deliberate misspelling of "night watch" and referred to the factory's Black night watchman Newt Lee—the man whom Frank first tried to implicate in the murder.

FALSE Conley confessed to helping Frank carry the dead body of Mary Phagan from the elevator to the basement, which he blamed Frank."

FALSE Atlanta physician J. Calvin Weaver, who served as surgeon for the federal prison where the confession was allegedly made, and where Dr. Weaver would have had direct and clear access to Freeman's full name and legal history.†

FALSE Judge Roan's deathbed. Leo Frank's defense attorneys two months after the judge had died. Judge Roan's family and his pastor repudiated it.

† This issue had emerged previously—ten years after the crime. See *AC*, Oct. 2, 1923, 7. The alleged negro, amazingly, also claimed that the factory's elevator had not run all day and that he had seen Conley with Mary Phagan's unrecovered mesh bag, confirming a key part of the Frank defense. S*ee AJ,* Oct. 2, 1923. Adding to the absurdity is the fact that neither newspaper had chosen to interview Dr. Weaver (who died in 1958) to elaborate on this "confession."

Many of the above Frank case falsehoods are in Robert Sherborne's article titled "EVIDENCE PAINTS JANITOR AS REAL KILLER." Sherborne raises the thoroughly repudiated charge that James Conley had confessed to his attorney William Smith, calling it the "most compelling" of ALL his "proofs" against Conley. Thus, it is a measure of the quality of the *Tennessean*'s spread when the best refutation of its "most compelling" claim comes from William Smith himself. In the very press conference in which

attorney Smith announced his new epiphany about the innocence of Leo Frank, the *Atlanta Constitution* reported:

> Mr. Smith took pains to state to reporters that Conley had made no damaging admission, and that nothing the negro had secretly said had influenced his new opinion.[1175]

In the end, the 83-year-old Alonzo Mann represents not his own memories, but the wishes and desires of his handlers. His total embrace by the Nashville *Tennessean* and the major Jewish organizations—Anti-Defamation League of B'nai B'rith, the American Jewish Committee, and the Atlanta Jewish Federation—reflects their desire to inflate the elderly Mann's credibility for no other reason than to better exploit him. And when one confronts the elaborate scheme to graft Mann's fictional chapter onto the Leo Frank affair, it quickly collapses in the light of the facts of the case and the inability of their elderly hero to uphold key elements of the story. Mann's dubious "recollections" are not genuine memories, for they conflict irreconcilably with those held by the man whose reputation and legacy Mann believed he was trying to save—Leo Frank.[1176]

Last, it is important to consider what may have driven Alonzo Mann out of the dark after 69 years of silence on the matter of who killed Mary Phagan. Mann's own lawyer—having assisted in setting up that disastrous private hearing in 1982 in front of members of the Georgia State Board of Pardons and Paroles—revealed something far more significant than his client ever divulged. John Jay Hooker disclosed that behind the carefully scripted Alonzo Mann "revelation" is a book and movie deal

executed by the two main *Tennessean* "journalists" Robert Sherborne and Jerry Thompson. Hooker said that those two newspapermen "would be in control of the 'Alonzo Mann Story.'" Turns out that Mann had "entered into a written agreement with those two gentlemen." Despite the claim of conscience-clearing after 69 years, it appears Mann was induced to come forward because of clear publicity and monetary enticements.

Posthumous Pardon Timeline

March 4, 1982 Mann, in failing health, signed an affidavit asserting Leo Frank's innocence and Jim Conley's guilt. He admitted he had seen Conley carrying the limp body of Mary Phagan on his shoulder near the trapdoor leading to the basement on April 26, 1913.

March 7, 1982 The Tennessean ran a special supplement with the story of Alonzo Mann's confession, which bore the headline "AN INNOCENT MAN WAS LYNCHED."

November 10, 1982 Mann repeated his story in a videotaped statement in Atlanta.

January 4, 1983 Based largely on Alonzo Mann's testimony, the Anti-Defamation League, the American Jewish Committee, and the Atlanta Jewish Federation, Inc., submitted to the Georgia Board of Pardons and Paroles an application for a posthumous pardon for Leo Frank.

August 31, 1983 Georgia Board of Pardons and Paroles hears case for Frank pardon.

December 22, 1983 The Board of Pardons and Paroles denied the motion for a pardon because while Alonzo Mann's testimony might incriminate Jim Conley, it did not conclusively prove the innocence of Leo Frank.

March 11, 1986 The Board of Pardons and Paroles finally issued a posthumous pardon to Leo Frank on the basis of the state's failure to protect him while in custody; it did not officially absolve him of the crime.

What Leo Frank Represents

No longer shall your name be called Jacob; rather, Israel shall be your name. For you have struggled with the divine and with men, and you have prevailed.

—
Genesis
32:28-29

What happened to Mary Phagan was terrible….What happened to Leo Frank was even more terrible.

—Harry Golden, A Little Girl Is Dead (1965)

Mary Phagan's Murder Solved

On August 25, 1913, B'nai B'rith president and factory superintendent Leo Max Frank was convicted of the murder of Mary Phagan in a trial that by all objective standards up to that time was one of the fairest ever accorded a citizen in the United States of America. A century later, a full and impartial reexamination of the evidence will *still* lead fair-minded analysts to these inescapable conclusions:

- that on April 26, 1913, Leo Max Frank did in fact murder 13-year-old Mary Phagan;
- that Leo Max Frank attempted to elude prosecution by implicating two innocent Black men for the murder he himself committed;
- that Leo Max Frank was a racist who built his legal defense using overtly racist arguments and deceptions;
- that Leo Max Frank's legal team and supporters committed a series of unethical and illegal acts that included bribery, perjury, the planting of and tampering with evidence—*even attempted murder*—and the obstruction and subversion of justice at every level of the case;
- that "anti-Semitism" played no part in the trial or appeals of Leo Max Frank and was invented by pro-Frank propagandists long after the

> trial for political purposes. There was no exodus of Jews from Atlanta; nor was there ever violence against them or their property as a result of the Frank affair.

Author Steve Oney's claim that the Leo Frank affair was "America's worst case of anti-Semitism" has no basis in reality. Jewish scholar Dr. Albert S. Lindemann is clear:

> [T]he available evidence…puts into question the assertion that anti-Semitism, whether as a product of a self-perpetuating fantasy divorced from reality or as a reflection of tensions in the real world, was of decisive importance in the Frank case.[1177]

For Jews had, for a century and a half, intimately participated in the political, business, and social affairs of Georgia without any hint, trace, or suggestion of "anti-Semitic" bias. Throughout the South they had been judges, jurors, court officers, lawyers, prosecutors, mayors, councilmen, and held every other position of influence in Southern society.[1178] Harry Golden, himself a Southerner and a scholar of the Frank case, wrote that the Jew is really in an enviable position:

> He is "our" Jew to small-town Southerners, and they often take care of him with a zeal and devotion otherwise bestowed only on the Confederate monument in the square.[1179]

There is no legitimate reason to suggest that the Texas-born, Brooklyn-reared German-Jewish Leo

Frank—a man whose family proudly carried Confederate credentials—was viewed any differently from his white Southern neighbors.[1180]

The one man who invested the most money, time, and resources to clear Leo Frank of his murder conviction, Jewish businessman Albert Lasker, was asked very directly in an interview in 1937, "Were you convinced of his innocence? Are you convinced of it now?" Lasker's answer is alarming:

> *No. At no point was I convinced of his innocence* because in the circumstantial evidence case that is impossible unless you were with the man every second.… There was no way of our telling whether any man was guilty or innocent, of course.

After he and colleagues met the prisoner, Lasker made this admission:

> It was very hard for us to be fair to him, *he impressed us as a sexual pervert*. Now, he may not have been—or rather a homeosexual [sic] or something like that. Of course I am telling you this off the record…[1181]

His interviewer, Boyden Sparkes, summarized their meeting:

> After talking to the convicted murderer, Leo M. Frank…[who] talks them "deaf, dumb and blind[,]"…[a]ll the men take a violent dislike to him. Mr. Lasker says he hopes that if freed he will fall and break his neck.[1182]

All the investigative bodies involved in the case —most notably an attorney and two private detective agencies hired by Frank himself—*publicly* affirmed the guilt of their own client. There is no basis, therefore, on which to demand from the general public a higher assessment of Leo Max Frank than that held by his most zealous defenders.

The Significance of Leo Frank to the Jewish People

Quite dramatically, the Leo Frank Affair has become the very essence and full expression of the Black–Jewish relationship, crystallized in a moment in time. The involvement of Black witnesses in such a high-profile trial where their citizenship was legally acknowledged made it a potential bellwether of American race relations. The impressive and unshaken testimonies of Newt Lee and James Conley—the two men that Leo Frank and his backers attempted to implicate in the murder of Mary Phagan—showed the attentive white public that Blacks had a degree of humanity they had been loath to concede.

The granting of this American civil right to Blacks was considered by Jewish leadership and rank-and-file Jews to be an infringement on *their* civil rights. Scholar Leonard Dinnerstein acknowledges this point when he wrote that anti-Semitism in Atlanta "was evident in the widespread acceptance of Negro Jim Conley's testimony."[1183]

What's more, some Jews insisted that the circumstances that led to Frank's trial, conviction, and lynching were driven not by the overwhelming evidence against Frank, but by some larger force. Some argue that Frank as factory manager was resented as "a symbol of alien industrialism;" others theorize that Atlantans saw Conley as someone who "belonged" to them, testifying against an outsider.[1184] Still others say that Georgians doggedly pursued Leo Frank—not because they thought he was guilty, but because the conviction and hanging

of a Black man would not have been adequate recompense for the tragic loss of their virginal white Southern belle. A wealthy Northern Jew was a more even trade-off, their theory goes, for the crime that enraged the entire white South.[1185] As Lenora E. Berson crudely phrased it, the crime *"demanded a villain blacker than any Negro could ever aspire to be."*[1186] Many other treatments amount to variations on those major themes, but all evade the true significance of the episode. And all these theories only complicate a simple reality: If whites had intended to "send the Jews a message," they would have reveled in the opportunity to treat the B'nai B'rith president exactly like a nigger—and Frank would have received no court proceeding (that is, none of the thirteen judicial hearings that he actually did receive)—and he would have been shot and castrated, his fingers, toes, and testicles displayed in a jar on the counter of a city five-&-dime, if he were not first burned alive at the stake.

Jews have turned Leo Frank into a powerful emblem of a much-touted Jewish American victimhood, even though their extraordinary American success story is almost totally devoid of any instances of injustice. Up to the murder of Leo Frank in 1915, the most significant example of American "anti-Semitism" was an episode that occurred 38 years earlier in 1877: a powerful Jewish banker named Joseph Seligman was denied accommodations at an elite vacation resort hotel in upstate New York. The insult was considered so egregious that the *New York Times* referred to it as the "Sensation at Saratoga," and Brandeis University professor Jonathan Sarna called the affair "shocking."[1187]

At the very same time, Jewish-owned hotels across America, without hesitation or a sense of

irony, refused admission to Blacks as a matter of policy and on the basis of skin color alone. A snubbing of a Jewish millionaire at a ritzy *Northern* hotel (Seligman quickly found other local accommodations and the hotel faced an international backlash)[1188] seemed a trivial inconvenience compared with the lynchings, massacres, pogroms, and wide assortment of discriminations that Blacks, Indians, Asians, and Latinos considered "shocking."

Even Leonard Dinnerstein had to admit that American Jews prior to the Frank case "had experienced no organized persecution and had found unlimited economic opportunities."[1189] In fact, Jews were so well received and prodigiously successful that some referred to the American slavery-based South as their "New Jerusalem," a veritable Promised Land.[1190] Dr. Sarna affirms that if the United States "has not been utter heaven for Jews, it has been as far from hell as Jews in the Diaspora have ever known."[1191]

Nevertheless, that unprecedented social, political, and economic freedom unloosed a troubling predatory trait that has haunted the Jewish image. Jewish Americans were deeply involved in the African slave trade, the plantation system of the South, and the Jim Crow system of apartheid that followed. Indeed, much of Sarna's "utter heaven" can be attributed to the massive profits generated by Jewish merchants in places and industries that were utter hell for Black Africans, the Indigenous peoples, and the many who fell victim to the most savage system of slavery and genocide in the annals of human history. Jewish wealth *utterly* exploded as a direct result of their trade in human beings and their marketing of slave-based produce such as sugar, tobacco, and

especially cotton.

This horrific racial history presented the Jewish people with an unsolvable dilemma. It irreconcilably conflicted with the unambiguous description of the Children of Israel, found in Genesis 15:13-14, as the despised and rejected strangers, persecuted for 400 years in a land that is not theirs. After centuries of claiming victim status everywhere on earth, Jews had not been humbled by their travails, but instead had become the cruelest of pharaohs in their "New World." By the time of the Civil War the image of the "poor persecuted Jews" had been so distorted by extensive Jewish slave-trading that one of their wealthiest was denounced by a Gentile on the floor of the U.S. senate as an "Israelite with the principles of an Egyptian."[1192] The role biblically outlined for them as the Children of Israel had become unrecognizable in every American sense.

Leo Frank's unfortunate felony in 1913 offered a chance to refashion a tragic murder into a Jewish persecution narrative that fit the biblical model—one that the Jewish people could and would adopt as the symbol most representative of their American experience. The incident was big enough and the subject—a B'nai B'rith leader—important enough to be used to give the Jewish people an American résumé of "anti-Semitism," which at the time of the Leo Frank Affair was nonexistent. In America, Jews had no natural enemies, and Leo Frank's martyrdom, real or imagined, provided the unique opportunity for Jews to create an imaginary but convenient oppressor.

In their ritualistic retelling of the Leo Frank episode Jews are careful *not* to emphasize that their victimhood is at the hands of the white Gentile, with whom they have always partnered in wielding

American racial power. That relationship is still too economically profitable and politically precious to disturb. Instead, this Leo Frank-style American Jewish martyrdom comes at the hands of the "cunning, bestial negro"—James "Jim" Conley—who has maligned not just a single Jewish pencil factory manager but the entire Jewish people. And this makes the Jew—as the oppressed victim of the lowest of the lowliest race—*the utmost American victim.*

The Leo Frank saga enables the Jews to publicly reiterate their victimhood by venting their rage at "black anti-Semites," with no adverse racial consequences from their white Gentile brethren. Whites are not blamed in any more than an oblique, inferential way, and in fact they are sometimes cast—as in Alfred Uhry's play *Parade* and Ben Loeterman's PBS docu-drama*, The People v. Leo Frank*—as co-victims of Conley's voodoo-like wiles. According to Frank's devotees, "he was a Jewish martyr, *made to pay the penalty* for a crime committed by an African American man."[1193] In this construction, the white men who actually "made Frank pay"—who arrested, indicted, tried, convicted, sentenced, imprisoned, and hanged Leo Frank—escape Jewish antipathy, in place of the vulnerable Black man, whose race for 400 years has paid dearly for Jewish survival and Jewish success.[1194]

For a full century the malicious hoax of "Black anti-Semitism" has been the defining characteristic of the so-called Black–Jewish relationship. Honest and legitimate criticism of Jewish behavior inimical to Black interests has been reinterpreted by Jews as "anti-Semitism." Not because it is that, but because the criticism is more easily repressed if it is characterized as part of a long history of bigotry

and prejudice "against the Jews."

Blacks—who have sojourned in a land not theirs, in servitude to white Gentiles *and* Jews, who cruelly afflicted them for 400 years—are the only people that fit every condition outlined in the well-known Biblical prophecy. Yet it is the truth-telling Blacks like Jim Conley who have been cast as persecutors of the innocent Jews. Black truth-tellers seeking to uplift their people—such as Booker T. Washington, Marcus M. Garvey, W.E.B. Du Bois, Martin Luther King, Malcolm X, the Honorable Elijah Muhammad, and the Hon. Minister Louis Farrakhan—have all been scapegoated as "anti-Semites" and cast as ignorant Jim Conleys seeking to oppress the easily victimized Jews.

Thus, "Black Anti-Semitism" was invented and deployed in 1913 as the Jews' weapon of choice to control and frustrate Black political and economic progress and thereby maintain the Jews' profitable and central role in the infrastructure of American white supremacy. In Leo Frank's name, Jews reclaim the biblical "high ground," which they have used to counter and even bury the explicit role they have played in the murderous 400-year history of white western expansion. And in Frank's name they have eluded their monumental culpability for white supremacy's profoundly negative effects on the Black and Indigenous communities the world over.

Further, Jews have used the Leo Frank legend to recast themselves as innocent victims of a violent American racism—indistinguishable from that faced by Blacks. And in so doing the Jewish people have in one fell swoop expropriated the identity of the Black man and woman and synchronized the Jews' image with the familiar biblical narrative. Just as the younger brother Jacob grabbed the heel of his older brother Esau, thus stealing his identity and

birthright, so too have the Jews in America falsely claimed to be co-sufferers with Blacks, using the legend of Leo Frank as their proof of a "shared" history of oppression and persecution.

A measure of Leo Frank's century-long potency as rhetorical armor for American Jews is the Anti-Defamation League's 2015 announcement of a major national initiative to combat anti-Semitism. The newly appointed national director, Jonathan Greenblatt, chose August 17th, the one hundredth anniversary of Frank's lynching, for its launch date, with Greenblatt invoking Frank's name multiple times. A few months later, in 2016, his just-retired predecessor, Abraham Foxman, announced the plan for a new "Center for the Study of Anti-Semitism," citing a single American example: Leo Frank. Without question, the case is the most used and abused bludgeon for promoting the illegitimate concept of Jewish American victimhood. The Jews' alleged "fear" of becoming victims of violent anti-Semitism "like Leo Frank" disguises the inherent hypocrisy of their stance and obscures their true role as America's wealthiest and most successful power brokers.

A Jewish American Messiah

To American Jews belief in the innocence of Leo Frank is an article of faith—one that artfully and adeptly links a prodigal people to the Israelite ancients. The problem Jews now face is that Leo Frank was no Rosa Parks (born in 1913, the year of Mary Phagan's death), the mother of the Civil Rights Movement, whose personal background, grace, and dignity made her ideal to carry a movement for justice on her shoulders. Jews were literally sold Leo Frank as a Jewish-American messiah before they fully grasped his questionable character, his seedy motives, and his true identity as the murderer of Mary Phagan. The greatest advertising mind in America, Albert Lasker, skillfully canonized a justly convicted murderer as *the* modern Ancient of Days. So impressive was Lasker's biblical rebranding that Frank himself participated in the grand messianic delusion.

When Georgia's former governor Joseph M. Brown professed his belief in Frank's guilt, the convict complained, "What a spectacle! An ex-Governor joining, with unreserved approval, the mob who cry, Crucify, Crucify!"[1195] As the chorus of people calling for Frank's conviction grew, Frank drew a direct comparison for his Bible-belt neighbors: "I feel toward them like the great Nazarene, who said 'Forgive them Father, for they know not what they do.'"[1196] Leo Wise, son of the founder of Reform Judaism, was the editor of the *American Israelite,* the voice of American Judaism. He fed Frank's messianic complex:

> Judge Roan in listening to its clamor and

> even yielding to it has the appearance of being governed by the same motives as are ascribed in the Gospels to Pontius Pilate, in another trial held about 1900 years ago.[1197]

Governor John Slaton too was caught up in the Passion of Leo Frank as he described his reasons for sparing the convict's life:

> Two thousand years ago another governor, Pontius Pilate, washed his hands of a case and turned a Jew over to a mob. For two thousand years that governor's name has been accursed. If today another Jew were lying in his grave because I had failed to do my duty, I would all through life find his blood on my hands and would consider myself an assassin through cowardice.[1198]

And such an image worked just as planned. Jeffrey Melnick perceptively points out that only after Frank's lynching could the term "Jew" be used "to designate 'one who suffers'."[1199] According to historian Jason Schulman,

> Before a serious Zionist movement developed to bring them together, and before the era of a unified response to the Holocaust, German and Russian Jews were united in their reaction to the Frank affair. Simultaneously, as the Frank affair forced Jews inward, it also garnered them outward acceptance in the American milieu. *Put simply, the Frank affair was a[n] opportune moment for "Americanization."*...[I]t may be time to

> consider that in the 1910s, *anti-Semitism in the South may actually have helped Jews as an ethnic people in America.*[1200]

For that reason Schulman quite accurately considers the Frank case to be "a turning point in Jewish-American history." Thus, Leo Frank is an indispensible pillar of American Jewish identity, in no less of a way than The Holocaust would later become to world Jewry. So successfully was this fraudulent 1915 narrative implanted in the American mind that a century later an unsuspecting public has almost no knowledge of the Jewish presence in America prior to that time. On that blank slate was written a new and unrecognizable history of Jewish America—one that portrayed the Jewish people as defenders of the weak and the poor and as champions of racial justice and political equality.

And just like that, Leo Frank's new and enhanced résumé has him giving birth to the Anti-Defamation League as the country's most outspoken opponent of anti-Semitism; and it makes him the father of the Civil Rights Movement and the from-the-grave leader of the fight against lynching. Blacks, who pioneered and led both those movements, were replaced in effect by the saga of Leo Frank.

In the Christian world, time itself started over with the birth of Jesus in Bethlehem and the world followed suit, marking its historical timeline by His life and resurrection. Significantly, the Frank affair enabled American Jews to begin their history with the plight of the man Lasker and Ochs had christened a Jewish American messiah. The history that came before the Leo Frank affair was buried and a new Jewish identity for a modern era was

born. Blacks were the most deceived by this ruse: Before Leo Frank, Jews were the Black man's open enemy; after Leo Frank, Jews were the Black man's "best friend."

Leo Frank's Anti-Black Attack

Incredibly, this new Frank-fostered image of Jews as crusaders for racial justice was accomplished even though there is probably no better example of Jewish racism than that shown by those Jews who fought for the exoneration of Leo Frank. In the very first world forum where Blacks and Jews were in formal courtroom confrontation, the top Jewish leaders in America chose a particularly vicious form of racism as their chief weapon to fight *for* Frank. They chose a "negro testimony," "negro crime," "smell of nigger" motif over all the formidable weapons in their intellectual arsenal, over all the Old Testament history and wisdom they were privy to, over all the cultural richness of the Jewish Diaspora, over all the voluminous ancient *midrash* or rabbinical commentary on the words of the Prophets. It was a shocking reminder of past Black–Jewish encounters at the auction blocks in Africa and throughout the Caribbean and the Americas, and, unfortunately, an accurate predictor of many future Black–Jewish disputes and interactions. In examining the trial nearly a century later, Jeffrey Melnick writes:

> Even if we accept that Frank had nothing to do with Mary Phagan's death, it is still necessary, for instance, to examine the ways Frank and his supporters used racist language to demean Conley and took refuge in what they understood to be the privilege of Jewish whiteness.[1201]

Ten years after Leo Frank's guilty verdict and its

many judicial reaffirmations, the Anti-Defamation League was unapologetically charging that a Black man was guilty of the murder of Mary Phagan.[1202] Again it reviewed the trial 30 years later and the most prominent Jewish rights organization in America considered the Frank team's injection of "the race-religious issue" into the trial as merely a "calculated risk," which in "a different stage setting...might well have succeeded."[1203] Over a hundred years later, the Jewish leadership continues to accuse the much-maligned Black man. But James Conley represented his own humanity with an inner strength and dignity that cannot easily be dismissed or diminished:

> I know I will be either hanged or get a life sentence, but I am prepared to take my medicine. I wrote the notes and I helped carry the body to the basement, and I know they can punish me for that. When the judge calls me up before him I am going to ask him not to ask me any questions, but to simply sentence me. If it's to hang, I'll stick to my story; and if it's life imprisonment, there'll be no change. It makes no difference what the sentence is, I'll have nothing to add and nothing to take away from the statement I made to the detectives...[1204]

It is that spirit which allowed him to face down the finest lawyers in the South and to withstand the focused collective assault of the world's wealthiest and most powerful people until the truth prevailed. By striking contrast, Leo Frank—the actual killer—admitted no errors, accepted no responsibility, and took no blame.

The Frank case drove more white people,

especially Jews, to reexamine the bestial practice of lynching. Before Frank's death, Jews generally, North and South, viewed the lynching of Blacks as a useful and necessary feature of America's "justice" system, both tacitly and overtly supporting terror as a form of social control.[1205] But after Frank's demise, the *Jewish Criterion* warned its readers that lynching might be an American social policy worth reviewing—not because Black blood had been shed, but because a white *Jew* was thought to have also become a victim. After all, the racist editors asked, "what is to prevent a white man from being lynched tomorrow. And if one white man, why not another?"[1206] Rabbi Jacob Goldstein, of Frank's childhood hometown of Brooklyn, declared that the Frank case—*not the multitude of Black lynchings*—"furnishes the strongest argument" against capital punishment.[1207]

The Black editors of the *New York Age* noted scathingly the overdue energy directed at stopping lynching in the United States:

> [Now] that a white man and a Jew with thousands of dollars behind his cause is the victim…there is a cry to make lynching a federal crime…as long as Negroes alone had been lynched the whole country has been content to let the pastime continue.[1208]

The *Chicago Defender* similarly opined in a headline:

> …Strange Contrast in the Thousands of Letters Sent the Governor of Georgia Asking for Clemency for Condemned Jew and the Silence That Follows the Lynching of an Afro-American…[1209]

In the same week Leo Frank was arrested, three Blacks were lynched in Georgia. And on the day of the Frank verdict, Joe McNeely, a Black man, was taken from a hospital in Charlotte, North Carolina, and shot to death by a mob of whites. That same day, Virgil Swanson, accused of murder, was lynched near Greenville, South Carolina, and a few days later someone else confessed to the crime.[1210]

Some relief did come—but not, ironically, from the justice-crusading Jewish leadership. Rather, it was the leader of the Leo Frank prosecution, Hugh Dorsey, who when he became governor of Georgia (1917–1921) ultimately championed Black rights. When first confronted with the horrific 1918 lynching of the pregnant Mary Turner—whose womb was ripped open and her unborn child crushed into the ground by the heel of a white man's boot—Dorsey retreated to the expedient trope that the cause of lynching was Black misbehavior. And in this he no doubt found support from Jewish leaders.[1211] In 1921, however, Dorsey had a remarkable change of view and published a groundbreaking study, titled *A Statement from Governor Hugh M. Dorsey As to the Negro in Georgia*. It detailed 135 incidents of racial injustice, including lynching, peonage, and other crimes against Blacks that had occurred over a two-year period. He wrote:

> To me it seems that we stand indicted as a people before the world. If the conditions indicated by these charges should continue, both God and man would justly condemn Georgia more severely than man and God have condemned Belgium and Leopold for the Congo atrocities. But worse than that condemnation would be the destruction

> of our civilization by the continued toleration of such cruelties in Georgia.

He called for the repeal of the state's oppressive peonage law and for the enactment of the anti-lynching statutes that would give the governor powers to intervene to stop lynchings and to prosecute mob members.[1212] The NAACP considered Dorsey's stand an exciting development because a governor from the Deep South "greatly enhanced the significance of the anti-lynching crusade."[1213] Dorsey's pioneering efforts on behalf of Black rights have been obscured by the historical taint applied to him by supporters of Leo Frank.[1214] Quite to the contrary, Louis Marshall, the most prominent Jewish leader in America, stood with the hardened white supremacists in *opposing* the 1922 Dyer Anti-Lynching Bill, which, at his urging, went down in defeat in the U.S. Senate.[1215]

Frank's Impact on America

Wherever there is a carcass, there the vultures will gather.

—

Matthew
24:28

The Frank case affected other aspects of American society as well. It drew attention to the conditions facing "factory girls" and child laborers and very likely hastened the reforms then underway. One of Atlanta's largest periodicals thereafter pressured "every Southern legislator" who refused to vote for child labor reforms, labeling the lawmakers as "potential murderer[s]."[1216] For factory managers like Frank, who operated their businesses as self-serving heirs of the plantation slave barons, such reforms probably made their routine exploitation and sexual abuse of workers a more difficult proposition.

The national reverberations of the Leo Frank case provided Jews some immediate political benefits. Less than a year after the Frank lynching, Louis Brandeis, a Jew, was nominated to the Supreme Court. According to his biographer,

> The Leo Frank case had sensitized people to anti-Semitism, and senators did not want their opposition to Brandeis—

> however soundly based—to be interpreted as prejudice.[1217]

Brandeis's success offers an almost perfect example of how the false narrative of "anti-Semitism" became the Jews' "weapon of war." The Frank case provided the Jewish elite with the smoke screen necessary to achieve their political objectives.

A further benefit for Jewish leaders was that the Frank affair coincided with one of the boldest power grabs in world history—the setting up of the Federal Reserve System, the private banking conglomerate that consolidated all the nation's financial resources into the hands of an elite set of Wall Street bankers.[1218] And as with the Brandeis appointment the "anti-Semitic" firestorm over the Frank case—concocted as it was—served to blunt criticism about the fact that the principals in the Fed operation were Jewish. One of them, Kuhn, Loeb & Company's president Jacob Schiff, had a clandestine personal relationship and business arrangement with Frank's savior, Georgia governor John Slaton, an association that lasted well after the lynching.

The fact is that Blacks and Jews could not have seen the Leo Frank trial in the same way. Just as the interests of the slave and slavemaster are by nature irreconcilable, so it is with those of Blacks and Jews. Once the Leo Frank case is properly contextualized, it will be seen for what it is: a masterly century-long deception designed to maintain a highly profitable and exploitative Black–Jewish, slave–slavemaster relationship.

In the end, whoever lynched Leo Frank lynched one of their own white brethren. His crime violated the Southern cultural code of conduct, having upset

a delicate balance that Jews had achieved with Gentiles in America. It was the rare instance where the crime was seen as so egregious that not even the tried and true "negro crime" defense could extricate Frank from the consequences of his own misdeeds. Were it not for the white Gentiles of Georgia—*in this case*—at least two innocent Black men would have paid with their lives, scapegoated not only to protect a prominent Jewish leader but also to preserve the reputation of the "Chosen People." Truth has now caught up with history and corrected a century-old injustice perpetrated against both Mary Phagan and James Conley.

Ultimately, a divine tribunal will hold America accountable for implementing and maintaining a system built on the blood, sweat, and tears of the Real Children of Israel—the Black man and woman of America. Somewhere on the docket will be a review of the Mary Phagan murder case, at which time the travesties of the Frank affair and the crimes of all the leading figures in the case will be laid bare. But not before that tribunal hears the millions of prior cases where the Brown, the Black, the Red, and the poor white were the innocent victims; and not before that highest of courts holds accountable the architects and beneficiaries of the very system that destroyed countless lives, including those of Mary Phagan, James Conley, and even Leo Frank.

The site of the National Pencil Company (37 S. Forsyth St.) where Mary Phagan was murdered, now the Sam Nunn Federal Center.

MARY PHAGAN
Celebrated in song as "Little Mary Phagan" after her murder at age 13 on April 26, 1913 in Atlanta. The trial and conviction of Leo Frank were controversial, as was the commutation of his death sentence four days before Confederate Veterans marked her grave on June 29, 1915. He was abducted from prison & lynched Aug. 17, 1915. In 1986 he was issued a pardon.

View from Mary Phagan's gravesite at Old Marietta Cemetery in Marietta, Georgia.

Epilogue

The Mother and the Stepfather of Mary Phagan Write[1219]

To the Hon. Thos. E. Watson:

Dear Sir: As the mother and father of Mary Phagan, our poor daughter, we feel it our duty to write you a letter expressing our sincere thanks for your noble efforts in the publishing in your paper the truth about the Frank case.

While we know that our advantages in life have been limited, and we are not as wise and foreseeing as some folks, we do know that we are correct in the assertion that the great daily newspapers in Atlanta and elsewhere in the State have deliberately failed and refused to speak out the truth in the Frank case concerning the tragic death of our precious little daughter. These papers, of course, have been controlled by the rich Jews who advertise in their papers, and they have not dared to publish to the world anything that was calculated to fix this crime on Leo M. Frank, where it unquestionably belongs. And in our sorrow we feel that you are the only one that we can turn to for an expression of the truth, and we find consolation in the

fact that one man, through one paper, has bravely held up for our cause and has exposed the dirty work of deception and perjury, as it has appeared all along in the progress of this case.

We are sorry that our former governor, J. M. Slaton, has seen fit to override the judgment of twelve impartial, honest jurors, the judgments of the courts, both high and low, and also the judgment of the great masses of the people. We feel sorry that he should do this when we take into consideration the fact that for two years after his trial not a scintilla of evidence was brought forward in his defense, although he had numerous men employed to work on the case, and all that they could bring forward was some alleged affidavits, which one of their number swore to be false.

We are sorry to say, but the spirit in our souls compel us to say, that that which could not be done in front of twelve honest men, nor through the courts all the way to the United States Supreme Court, has been done by the Governor of Georgia through Jew money and influence.

We are sorry to say that the man whom we supported for Governor of Georgia was so weak and so little to succumb to these influences, and we pray to God that Georgia shall never have another such man to sit in her executive chair.

It appears to us if Slaton thought the rich Jew, whom his partner represented was innocent, why in the name of God didn't he free him altogether? Why should he only commute his sentence? To our minds there was no middle ground whatsoever. We can't possibly see why a man guilty of so heinous offense should have his sentence mitigated.

We both were in attendance at the trial each day, we heard the evidence, we noticed Frank's attitude and his actions all through the trial, and we know beyond any question of a doubt that Leo M. Frank is the guilty man.

If we had any doubts as to Frank's guilt at any stage during the trial, we would have been the first to so declare. While personally we wanted the murderer of our young daughter punished, we wanted it more so for the fact that if the offender of this heinous crime was brought to sure and swift punishment it would deter others.

We had hoped that by the sure and certain punishment of Frank that no other young Georgia girl, budding into womanhood, would die a horrible death defending her virtue against a rich, depraved, sodomite Jew.

We feel that justice delayed has been justice denied.

We cannot but help feel that the man, be

he rich or poor, who unquestionably murdered our poor daughter, while she was defending her virtue and honesty, the principle of which we had been so careful in teaching her from childhood, should pay the death penalty.

We cannot help but believe that Slaton, who by his acts as an official, has been a traitor to the people of Georgia, a traitor to law and justice, and a traitor to the womanhood of Georgia.

In conclusion we will say, that while the flowers bloom about the last resting place of our dear, innocent child and we are left to tread the balance of our life the dreary path of sorrow, we must declare our deep feeling of gratitude to you, Mr. Watson, for your brave and patriotic attitude in this case, and it does seem to us that you, along with the fearless and noble Georgian, Hugh M. Dorsey, deserve the unlimited and everlasting admiration for your loyalty to a cause that involves the great issue between money and fair play with the common people of our State.

Respectfully yours,

MR. AND MRS. J. W. COLEMAN.

A Statement About Mary Phagan

Oh, I am so lonely without her….I never had but one sister, and she's gone….Oh, God, I just feel as if I could die.[1220]

—Mary Phagan's older sister, Ollie Phagan, April 1913

The young murder victim at the center of this tragic episode in American history is 13-year-old Mary Phagan. She was more than a "factory girl," as many accounts contemptuously refer to her: she was a child of one of the millions of poor working families caught in a major economic upheaval in America after the demise of chattel slavery. The many academic analyses of this case have almost entirely removed the murdered girl from consideration in favor of the one person they insist is the real victim—Leo Frank.[1221] Indeed, the case became internationally notable not out of sympathy for its young strangled victim but because of the prosecution and ultimate lynching of her convicted murderer. Thus, the name Mary Phagan has no historical meaning, while the name Leo Frank carries the status of national tragedy.

The labeling of Mary Phagan as "a factory girl"

harks back to a time in American history when Blacks were commonly classified as “rice negroes” or “cotton negroes” or “house negroes,” not only bought and sold as slaves but also categorized by their sellers as having a particular lifelong manual-labor obligation. In Mary’s time, 50 years after slavery’s demise, America’s heirs of the slave system made only rhetorical alterations to that highly profitable economic model, such that through a sophisticated debt system a sharecropper or tenant farmer became the wholly owned property of the landholder or merchant—and an employer of young women and girls in the industrial South believed that when he *hired* “the help,” he *bought* his female employees.

This was the operational power dynamic that resulted in the tragic death of Mary Phagan at her factory workplace, and it is that same dynamic which has misdirected the scholars of the case. And though this volume has grappled with the legal, social, racial, economic, religious, and political details of that sordid affair, we must never lose sensitivity for the suffering that young Mary experienced at the hands of her brutal murderer.

It is to Mary Phagan and her family that we dedicate this volume, as well as to all the many innocents—white and Black—who became victims of the circumstances and events surrounding her murder. Our conviction about the case is reflected in the title, *The Lynching of a Guilty Man*, but our goal has been to right a massive wrong and bring justice to an innocent young girl who one day in April 1913 sought to collect her meager pay of $1.20, never suspecting it to be the last day of her life.

The Black Unforgotten: Georgia's Lynching Victims

Brown, Alex
Knight, Augustus
Fountain, Frank
Fulford, Joseph
Bradley, Harry
Robinson, Reuben
Warren, Lewis
—, Lewis
Jenkins, Henry
White, Henry
Rogers, Jeff
Grady, Hardy
Hardin, Willis
Gibson, Samuel
Wade, Jane
Dorsey, J. R.
Rouse, George
Brantley, Thomas
Stamps, Peter
Hopkins, John
Davis, Henry
Birdsong, Robert
Birdsong, Aaron
Etheridge, Alexander
Braswell, Jake
Hollenbeck, Mary
Moore, James
Odwell, Daniel
Black Person, Unnamed
Israel, Thomas
Parks, George
Smith, Monroe
Sanders, W. P. F.
—, Samuel
Black Person, Unnamed
Hudson, Reuben
Griffith, Ross
Burney, Henry
Roof, Thomas
Thomas, Wm.
Pope, Henry
Sales, Dan
Sturgis, Allen
Clark, Ned
Long, Sam
Johnson, Wm.

Edwards, Lewis
Smith, Tom
Coleman, John
Black Person, Unnamed
Malone, Van
Love, Martin
Asbury, Walter
Powell, Warren
Duncan, John
Thomas, James
Anthony, John
Moss, Tom
Jackson, Peter
Hopps, Wm.
Washington, Brown
Martin, Sim
Robinson, Andrew
Poke, Jesse
Penn, George
Harmon, James
Thomas, General
Lowe, Will
Jones, Owen
Simmons, John
Black Person, Unnamed
Lewis, Wesley
Jackson, Henry
West, Allen
Buck, Daniel
Brown, Robert
Sutton, Will
Allen, Wm.
Mack, Charles
Black Person, Unnamed
Nix, Larkin
Golding, Welcome
Knight, Robert
West, Wm.
Redmond, Jim
Roberson, Gus
Addison, Bob
Moreland, Anderson
McDaniel, Lee
Howard, Benjamin
Jossey, John
Williams, Jesse
Wilson, Jack
Lewis, Daniel
Taylor, James
—, Ed
Black Person, Unnamed

Merchel, Ephraim
Black Person, Unnamed
Hastleton, Dug
Chambers, Jack
Richardson, Bill
Dickson, James
Bennett, Arthur
Jones, Newton
Furgerson, Wm.
Thomas, Calvin
Holt, Lucius
Collins, Robert
Rhodes, Sylvester
Worley, Henry
Evarts, Robert
Bran, Alfred
Ahern, Daniel
Black Person, Unnamed
Thompson, Gus
Franklin, Fayette
Ogletree, Owen
Black Person, Unnamed
Goosby, Dave
Lawrence, Lee
Taylor, Samuel
Frazer, Eli
Pike, Samuel
Sherod, Henry
Coldhand, George
Gibson, Amos
Harris, George
Harris, John
Harris, Jesse
Weaver, Wesley
South, Neal
Jefferson, Lewis
Sutton, Henry
Sutton, Tony
Perdue, T. W.
Hardee, Wm.
Slayton, Jesse
Miles, Wm.
Black Person, Unnamed
Williams, Charles
Milner, Henry
Grist, Sidney
Henderson, Anthony
Forsyth, Jr., Charles
White, Willis
Ryder, W. L.
Williams, Oscar

Green, Andrew
Gibson, Charles
Teott, Ben
Ruff, Joshua
Dillard, Whit
Allen, James
Oliver, Richard
Meadows, John
Black Person, Unnamed
McFadgen, —
Burden, George
Merriwither, Edward
Bolden, Jeff
Glover, Jacob
Bivens, George
Holt, Wm.
Fort, George
Cotton, Bud
Bingham, Henry
Hutson, Tip
Brown, Edward
Strickland, Lige
Holt, Samuel
Thurman, Alfred
Clark, David
Williams, —
Sammin, Louis
Black Person, Unnamed
Black Person, Unnamed
Johnson, Bob
Clark, Monroe
Mack, Charles
Smith, Si
Black Person, Unnamed
McClure, Wm.
Henderson, Louis
Henderson, Ed
Goolsby, John
Black Person, Unnamed
Bailey, John
Brooks, Allan
Jones, Marshall
Willis, Wm. B.
Adams, Simon
Hines, Jordan
Jefferson, Renny
Hilsman, Jack
Hardeman, Frank
Rufus, Bud
Dodson, Ed
Thompson, Sterling

Reede, George
Moody, John
Harris, Sherman
Gordon, Kennedy
Goolsby, Wm.
Magruder, Billie
Earle, Frank
Washington, Joe
Booth, Theo
Allen, Walter
Young, Henry
Wise, John
McCauly, Arthur
Brown, John
Mobley, Wm.
Brown, Benjamin
Hall, Lee
Fambro, Wm.
Rainey, Andrew
Gorman, Benjamin
McCoy, Garfield
Mckinney, George
Anette, Wiley
Peavey, Banjo
Claus, Edward
Black Person, Unnamed
Black Person, Unnamed
Thompson, Arthur
Cumming, John
Jones, John
Reid, Paul
Cato, Wm.
McBride, Sebastine
Glover, James
Scott, —
Ware, John
Troy, Jack
Martin, Edward
Simmons, Herbert
Aycock, Lon J.
Price, Sandy
Yerby, Gene
Robinson, Richard
Robinson, Lewis
Elder, Claude
Allen, Richard
Harris, Robert
Seabright, Thomas
Goodman, Augustus
Wommock, Will
Pearson, Edward

Carmichael, Floyd
Fuller, Charles
Newsome, William
Hicks, Meta
Hicks, Jett
Harris, Charles
Padgett, Son
Padgett, Daughter
Padgett, Wife
Padgett, Sim
Herbert, George
Posey, Dock
Walker, John
Coley, Henry
Webb, Abe
Johnson, Sam
Robertson, Curry
Henry, John
Wilkins, Walter
Baker, Albert
Black Person, Unnamed
Williams, Alonzo
Williams, Vince
Lokie, Charles
Thomas, George
Towns, John
White, Henry
Fowler, John
Aiken, Albert
Reese, Albert
Hardy, Joseph
Carroker, Wm.
Isaac, Henry
Green, King
Anderson, Simeon
Sweeney, John
Harvard, John
Lambkin, Daniel
Williamson, Will
Royal, Albert
Jackson, Charles
Wilson, Charles
Black Person, Unnamed
Roberts, Evan
Toler, Jim
Oglesby, —
Walker, John
Johnson, Wm.
Kurtz, Pearly
Jones, Charlie
Veazey, John

Jackson, Henry
Hale, Charles
Jordon, Dawson
Pickett, Charles
Burton, Murray
McLeod, John
Smith, Benjamin
Moore, Joseph
Cranford, Lawrence
Watts, Joe
Allen, Thomas
McGriff, Will
Davis, Will
Black Person, Unnamed
Black Person, Unnamed
Lovelace, Jerry
Chapman, Andrew
Warren, John
Hamilton, Albert
Hathaway, Belle
Haming, Eugene
Moore, John
Crutchfield, Dusty
Powell, Charles
Stewart, Homer
Howell, Homer
Chitwood, Lee
Etheridge, Henry
Barksdale, Annie
Black Person, Unnamed
McElhenny, T. Z.
Collins, Ed
Yarbrough, Babe
Black Person, Unnamed
Black Person, Unnamed
McDonald, George
Moore, John Henry
Owensby, Samuel
Redding, Wm.
Shake, John
Lovett, Son
Swanson, Virgil
Boyd, General
Jones, Charles
Brown, Nathan
Morris, Peter
Barber, Eula
Barber, Ella
Barber, Jesse
Barber, Dan
Sheffield, Ceasar

Stephens, Samuel
Jackson, Peter
Jambo, Peter
Green, Alonzo
Green, Son
Palmer, Earl
Frank, Leo M.
Riggins, John
Bland, Samuel
Stewart, Wm.
Lake, Felix
Lake, Frank
Lake, Dewey
Lake, Major
Seymour, John
Goolsby, Grandison
Goolsby, Mike
Goolsby, Ulysses
Jewell, Hosh
Holmes, Charles
Burton, James
Hightower, Early
McCorkle, Jesse
Harris, Marvin
Lewis, —
Shuler, Moxie
Hudson, Peter
Sturgis, Elijah
White, Henry
Conley, Mary
Smith, Charles
Nowling, Joe
Clinton, Linton
Burnett, M.B.
Butts, George
Chamber, Clinton
Moncrief, Rufus
Stater, Jesse
Johnson, Collins
Johnson, D. C.
Johnson, Mack
Dekle, Claxton
Cosby, Bud
Evans, Spencer
Rice, Eugene
Turner, Hayes
Cobb, James
person, Unnamed
Turner, Mary
Hose, Sam
Head, Wm.

Thompson, Will
Riley, Chime
Schuman, Simon
3 Unidentified Men
Calhoun, John
Harden, Ike
Gilham, John
Reaves, Sandy
Reeve, Sandy
Ruffin,Jr., Joe
William, Wm.
Williams, Willie
Ruffin, Andrew
Waters, James
Washington, Berry
Richards, Denny
Richards, Benny
Black Person, Unnamed
Cooper, Eli
Kelly, Charles
Grant, James
Glenwood, Ernest
Cox, Obe
Hamilton, Eugene
Martin, Mose
Brown, Wm.
Gordon, Jack
Black Person, Unnamed
Black Person, Unnamed
Jones, Paul
Baynes, Wallace
Ridicer, Jack
West, Charles
Gaithers, Philip
Black Person, Unnamed
Cremer, Felix
Grant, John
King, George
Whitehead, Bob
Ivory, Minnie
Perry, Will
Ivory, Wm.
McKelvey, Curley
McKelvy, Curly
Black Person, Unnamed
Roland, James
Williams, Samuel
Ebarhardt, John Lee
Anderson, Wm.
Ross, Rawls
Williams, John Henry

Smalley, Walker
Robinson, Jr., Lee
Lowe, George
Hale, West
Hale, Wes
Grove, Roy
Jones, Wm.
Williams, Alfred
Atkins, Charlie
Byrd, Wm.
Bryd, Will
Byrd, Alex
Anderson, Will
Harvey, James
Jordan, Joseph
Davis, Jake
Davis, Shake
Glover, John
Glover, Cocky
Long, Jim
Johnson, James
Harris, Aaron
Green, Lee
Hays, John
Haynes, John
Thrash, Beach
Westmoreland, Penny
Westmoreland, Marcus
Smith, Robert
Dixon, Willie
Wilson, Willie
Wright, David
Lockhart, Joe
Irvine, Jimmy
Irwin, James
Mincey, S. S.
Grant, George
Kirkland, Wm.
Clark, John
Clark, Willie
Bryan, William
Mitchell, Lacy

Who's Who in the Leo Frank Case

Alexander, Henry A. – lawyer added by Albert Lasker to Leo Frank's defense team during the appeals process; Hugh M. Dorsey's Jewish college roommate; "negrologist" who doctored photocopies of murder notes.

American Israelite – The Cincinnati-based weekly was the voice of American Judaism. Founded by Rabbi Isaac Mayer Wise, the founder of Reform Judaism. He was succeeded as editor and publisher by his sons Leo Wise, from 1900 to 1928, and Jonah B. Wise, from 1928 to 1930. The weekly columnist commenting on the Leo Frank Case was the prominent rabbi Max Heller. *New York Times* owner-publisher Adolph Ochs was married to Iphigenia Miriam Wise (known as Effie), the daughter of Rabbi Isaac M. Wise.

American Jewish Committee – founded in 1906 by German Jewish elites to safeguard Jewish rights. Its members worked behind the scenes to build a nationwide coalition of influential Jews to raise funds for the Leo Frank defense and shape public opinion. Its executive committee included notables Louis Marshall, Cyrus Adler, Cyrus Sulzberger, Julian Mack, Jacob Schiff, and Julius Rosenwald.

Anderson, W. F. – Atlanta policeman and call officer who responded to the crime scene.

Anti-Defamation League of B'nai B'rith (ADL) – founded in 1913, the Jewish defense organization claims the Leo Frank case as its *raison d'être*.

Arnold, Reuben – co-counsel with Luther Rosser on Leo Frank's defense team. His firm's most lucrative client was the *Atlanta Journal*.

Atlanta, Georgia – founded in 1837 and officially incorporated in 1847, it became known as the Gate City to the South; became Georgia's capital in 1868. By 1900 it was the largest city in the state and the third largest in the Southeast. Owes its origins to two important developments in the 1830s: the forcible removal of the Indigenous peoples (principally the Creek and Cherokee nations) and the extension of railroad lines—the lifeblood of Atlanta—into Georgia's interior. At the time of the Civil War, Atlanta boasted a population of almost 10,000 (one-fifth of whom were slaves), and after the Civil War Atlanta had the largest population of Jews of any city in the South.

Atlanta Constitution – daily newspaper, published and edited by Clark Howell; 1912 circulation of 41,405. Jacob Dewey Gortatowsky was its Jewish managing editor at the time of the Leo Frank Case. Over a twenty-four-year period beginning in 1876, Joel Chandler Harris, writer of the "Uncle Remus" happy-slave tales, penned hundreds of articles for the paper.

Atlanta Georgian – daily newspaper owned by William Randolph Hearst (purchased by Hearst from founder Fred L. Seely, in 1912). Under founding editor John Temple Graves, one of several Atlanta newspapers that "whipped whites into a frenzy" of race violence in 1906. For the initial two years under Hearst, first Keats Speed and then

Foster Coates were its editors; Michael D. Clofine was its Jewish city editor at the time of the Leo Frank Case; pre-Hearst circulation of 38,000; just before Mary Phagan's murder, circulation of 60,000.

Atlanta Journal – U.S. Senator Hoke Smith was the organ's founder and former owner; published by James R. Gray until his death in 1917; circulation of 52,000 in 1912. John Sanford Cohen was its Jewish managing editor at the time of the Leo Frank Case. The daily helped "whip whites into a frenzy" of race violence in 1906.

Atlanta Massacre of 1906 – a murderous riot by whites that resulted in the massacre of scores of innocent Blacks. Incitement of the riot was attributed to Georgia governor Hoke Smith and the city's newspaper editors, including *Georgian* editor John T. Graves and the *Journal*'s John S. Cohen.

Atlanta Police Department – In 1911 James L. Beavers was elected chief, and the police department acquired its first motorized vehicles, motorcycles, and auto patrol wagons; in 1915 Chief William M. Mayo establishes first police school of intensive instruction.

B'nai B'rith – Independent Order B'nai B'rith, or Sons of the Covenant, was founded in New York City by 12 German-American Jews in October 1843. In 1913 Leo M. Frank was president of its 400 to 500-member Gate City Lodge No. 144, District No. 5 (Atlanta), the most prestigious Jewish fraternal order in the city. Held its 1914 national convention in Atlanta.

Bailey, Gordon “Snowball” – Black laborer employed at the National Pencil Company; one of four Gentiles arrested on suspicion of murder prior to Leo Frank’s arrest.

Barrett, R. P. – National Pencil Company machinist who found the hair evidence on his machine after the murder.

Beard, Emma – domestic servant for about 7 years to the family of Herbert G. Schiff, assistant superintendent of the National Pencil Co; defense witness.

Beavers, James L. – became Atlanta Police Chief in August 1911.

Beck, L. H. – president of Beck & Gregg, Atlanta’s largest hardware company; foreman of the grand jury that indicted Leo M. Frank; Albert McKnight’s employer.

Benjamin, Sol – one of five Jews on the grand jury that indicted Leo Frank.

Black, John R. – Atlanta police detective.

Bowen, Paul – was arrested in Houston, Texas, on May 5th on suspicion of Mary Phagan’s murder.

Brown, Joseph M. – Georgia governor, 1911–1913; a leading citizen of Marietta, Ga., hometown of the murder victim, Mary Phagan.

Brown, R. J. – Atlanta police sergeant and morning watch commander who responded to the crime scene.

Burke, C. W. – Burns operative, who “discovered” the infamous Carter letters.

Burke, J. M. – superintendent of the State Prison Farm at Milledgeville, Georgia,

where Frank served his sentence.

Burns, William J. – famous private detective whose firm was hired by Leo Frank and later implicated in a litany of crimes on Frank's behalf, including subornation of perjury, planting of evidence, and bribery. His license was revoked by Atlanta City Council; his accreditation rescinded by International Association of Police Chiefs. Appointed Director of the Bureau of Investigation (forerunner of the FBI) in 1921 and forced to resign in 1924 for his role in the Teapot Dome Scandal.

Campbell, Patrick (Pat) – Atlanta police detective.

Campbell, Wade – worker who was at the National Pencil factory the morning of the murder; brother of Mrs. J. Arthur White.

Carson, Irene – worked on the fourth floor of the pencil factory; sister of Rebecca Carson and daughter of Mrs. E. M. Carson; defense witness.

Carson, Mrs. E. M. – three-year employee at the National Pencil Company; mother of Rebecca and Irene Carson; defense witness.

Carson, Rebecca – forewoman at the National Pencil Company in the factory's sorting department; supported Frank's alibi at trial.

Carter, Anna "Annie" Maud(e) – enlisted by William Burns as an operative; used as source for infamous "Carter Letters" scheme.

Cato, Myrtice – worked on the fourth floor of the pencil factory; testified that she saw Frank having inappropriate relations with a

female employee.

Chambers, Philip – 15-year-old office boy at the pencil factory, where he worked from December 1912 to April 1913.

Clofine, Michael D. – Jewish city editor of the *Atlanta Georgian* (and Hearst's *Sunday American*) at the time of the Leo Frank Case. A "constant visitor of Frank" at the Tower jail.

Cohen, John S. – managing editor of the *Atlanta Journal*; the son of a rabbi; "high in the councils of the Ku Klux Klan" and one of several newspaper editors who "whipped whites into a frenzy" of race hate that ultimately led to the white riot of 1906; in 1917 became the *Journal*'s president and editor in chief.

Coleman, Fannie (Benton) Phagan – mother of Mary Phagan and her four siblings; widowed three months before Mary's birth; married J.W. Coleman in 1912.

Coleman, John W. – cabinet maker; stepfather of Mary Phagan.

Collier's Weekly – had a weekly circulation of one million and was considered as important as the *New York Times* in Frank's PR campaign.

Confederacy – a.k.a. the Confederate States of America; it was the separate government formed by eleven southern states; attacked the United States of America, starting the Civil War (1861–1865).

Confederate Memorial Day – the day Mary Phagan was murdered in 1913. Observed as an official state holiday the 26th day of

April from 1874 until 1984. April 26 marks the anniversary of the end of the Civil War for Georgia.

Conley, James "Jim" – sweeper at the National Pencil Company; arrested on Thursday, May 1, 1913, on suspicion; claimed he was called upon by Frank to help move the body of Mary Phagan; gave compelling testimony against Frank at trial.

Connolly, Christopher P. – *Collier's Weekly* writer aligned with the defense; point man in nationwide public relations campaign to exonerate Leo Frank.

Craven, Roy L. – witness sworn for the State; employee of Beck & Gregg Hardware, where Albert McKnight also worked; present when Minola McKnight made her affidavit.

Creen, J. William – convicted murderer serving a life sentence; stabbed Leo Frank while both were imprisoned at the State Prison Farm in Milledgeville, Ga.

Cuero, Texas – birthplace of Leo Frank.

Dalton, C. B. – claimed to engage, along with Leo Frank, in sexual activity and drinking with women at the pencil factory.

Darley, N. V. – personnel manager of the National Pencil Company; was at the pencil factory on Saturday, April 26, 1913; witness for the prosecution.

Denham, Harry – He and J. Arthur White were working on machinery on the top floor of the pencil factory the day of the murder.

Dobbs, L. S. – Atlanta police sergeant; one of the first responding officers to the crime scene. Found the murder notes lying next to

Mary Phagan's body.

Donehoo, Paul – Fulton County coroner who conducted the inquest into Mary Phagan's murder; by 1913 had served as coroner for four years; left blind by childhood meningitis.

Dorsey, Hugh Manson – appointed Solicitor General of Fulton County in 1910, he was then elected, serving until 1916; tried the Frank Case in 1913; later became Governor of Georgia (1917–1921); partner at the law firm Dorsey, Brewster, Howell & Heyman, of Atlanta, Ga.; his youngest sister was married at the time of the Frank Case to the son of Frank's defense attorney Luther Z. Rosser; notable for his 1921 pamphlet titled *A Statement from Governor Hugh M. Dorsey As to the Negro in Georgia*, which exposed the mistreatment of Blacks in the state.

Elsas, Oscar – b. 1871, d. 1924; became president of Fulton Bag and Cotton Mill in 1909 upon the retirement of his father, Jacob, who founded the company in 1881. Oscar Elsas's company was the largest employer in Atlanta and a client of Luther Rosser and Governor John Slaton's law firm. Was on the grand jury that declined to indict James Conley.

Epps, George – 14-year-old newsboy; witness for the prosecution.

Felder, Thomas B. – well-known Southern lawyer who was secretly engaged by Leo Frank to obtain evidence held by the state; was first to introduce "anti-Semitism" into the case.

Ferguson, Helen – National Pencil Co. employee

who worked in the factory's metal department with Mary Phagan; testified that Frank refused to give her Mary's pay (though a common company practice), his refusal resulting in Mary having to go to the factory herself to collect her wages directly from Frank.

Formby, Nina – operated a boarding house for men, in Atlanta; swore to and later repudiated an affidavit claiming that Frank had asked her for a room on the night of the murder.

Frank, Leo Max – b. Apr. 17, 1884; d. Aug. 17, 1915. 29-year-old superintendent of the National Pencil Co.; president, Gate City Lodge No. 144 of B'nai B'rith in Atlanta, Ga.; born in Texas and raised in Brooklyn, NY; graduated from Cornell University in 1906 with a mechanical engineering degree; brother to Marian Frank (Stern); married a daughter of the wealthy and established Selig family in 1910; convicted of the murder of Mary Phagan on Aug. 25, 1913; sentenced on Aug. 26, 1913, to hang; death sentence commuted on June 21, 1915, to life imprisonment; on Aug. 17, 1915.

Frank, Lucille Selig – wife of almost 3 years to Leo M. Frank; one of three daughters of the well-connected Emil and Josephine Selig; granddaughter of Levi Cohen, co-founder of Atlanta's reform synagogue, the Temple. She and Frank lived at the home of her well-to-do parents in a then-fashionable section of Atlanta, the southside.

Frank, Moses – claimed to be a Confederate veteran; was a major operator in the international cottonseed oil business; owned

a substantial percentage of National Pencil Company stock; Leo Frank's wealthy (Brooklyn) uncle, based in Atlanta; financed his nephew's legal defense.

Frank, Rachel "Rae" – Leo Frank's mother; husband of Rudolph Frank.

Frank, Rudolph – Leo Frank's father; husband of Rachel Frank; Moses Frank's brother.

Freeman, Emma Clarke – witness for the defense; prior to April 26 had worked on the fourth floor of the pencil factory, which she visited the day of the murder.

Frey's Gin – located 2 miles east of Marietta, Ga.; near Mary's ancestral home; site of the lynching of Leo M. Frank.

Fulton Bag and Cotton Mill – Jewish-owned factory in Atlanta; site of labor unrest; Atlanta's largest employer.

Fulton County – incorporated in 1853; Atlanta is the county seat; location of National Pencil Co.; site of Leo M. Frank's trial; location of Tower prison, where Frank was confined upon grand jury indictment, after his conviction, and during his appeals; future stronghold of the Klan in Georgia—the Ku Klux would "absolutely control Fulton county and Atlanta."

Gantt, James M. – Twenty-six-year-old former shipping clerk of the National Pencil Company; discharged April 7th by Leo Frank; Marietta native and friend of Mary Phagan's family; arrived at the factory the evening of the murder to recover his shoes and was later arrested; Frank attempted to direct suspicion to him.

Georgia – the last of the original 13 colonies of America to be formed; originally intended to be a debtors' colony. When slavery was outlawed in the colony of Georgia, Jews left; they returned once slavery was reinstated. From 1877 to 1950, Georgia recorded the most lynchings: five hundred and eighty-six Blacks were lynched.

Georgia Board of Pardons and Paroles – The Board is a part of the executive branch of Georgia's government, authorized to grant paroles, pardons, reprieves, remissions, and commutations and to restore civil and political rights. In 1983 it denied the ADL's application for a posthumous pardon for Leo Frank. In 1986 the Board issued a posthumous pardon to Leo Frank, but did not overturn the guilty verdict.

Georgia Supreme Court – the highest court in the state of Georgia; reviews cases already heard in the state's lower courts; denied Leo M. Frank's appeals for a new trial.

Gershon, George A. – New York-born proprietor of an Atlanta manufacturing company; one of five Jews on the grand jury that indicted Leo Frank; member of Frank's synagogue.

Golden, Harry — writer of the first major book on the Frank case, *A Little Girl Is Dead*, which advocated for Frank's innocence.

Goldstein, Max F. – Atlanta attorney of the law firm Little, Powell, Hooper & Goldstein; was Frank A. Hooper's and Arthur G. Powell's law partner and one of Leo Frank's attorneys; B'nai B'rith officer; testified at the trial on Frank's behalf; represented Frank's hired detectives of the William J. Burns Det.

Agency against perjury and other serious charges.

Gordon, George A. – appeared as Minola McKnight's attorney in 1913; Anna Maude Carter's attorney in 1914.

Graham, E. K. – at the pencil factory on the day of the murder.

Gray, James R. – publisher and editor of the *Atlanta Journal*; lawyer; after Gray's death in 1917 managing editor John S. Cohen took over, serving as president and editor.

Griffin, Maggie – worked on the fourth floor of the pencil factory; one of several women who provided damaging testimony against Frank.

Guthman, Albert L. – owner of a laundry company; one of five Jews on the grand jury that indicted Leo Frank.

Haas, Herbert J. – member of a prominent Jewish family and trustee of the Temple; Leo Frank's lead attorney and funnel for funds from financier Albert Lasker for Frank's defense.

Haas, Leonard – cousin of Herbert Haas and one of Frank's attorneys; American Jewish Committee member, District I (Atlanta); past president of the B'nai B'rith in Atlanta.

Hall, Corinthia – forewoman who worked in the finishing department of the pencil factory; visited the factory the day of the murder.

Hall, Hattie – stenographer for the National Pencil Company, mostly working in the office of Montag Bros.; worked for Leo Frank at the factory on April 26th, the day of the murder.

Harris, Henry F. – M.D.; Georgia Board of Health; Atlanta's foremost medical doctor; performed the autopsies of Mary Phagan.

Harris, Nathaniel E. – the "last Confederate soldier to serve Georgia as Governor," 1915–1917.

Hearst, William Randolph – newspaper magnate; by 1913 he controlled a growing national newspaper empire; publisher-owner of the *Atlanta Georgian* and *Sunday American* at the time of the Frank Case.

Heller, Max – Reform rabbi to Temple Sinai in New Orleans, the largest and most prestigious synagogue in the South; weekly columnist for the American Israelite; vocal proponent of commutation for Leo Frank.

Hewell, Dewey – National Pencil Co. employee; worked in the metal department of the factory; witnessed Leo Frank being overly familiar with Mary Phagan.

Heyman, Arthur – Prosecutor Hugh Dorsey's Jewish law partner; vice-president of Atlanta's B'nai B'rith at the time of Leo Frank's conviction.

Hill, Benjamin H. – chief judge, Court of Appeals of the State of Georgia, 1907–1913; as Fulton County Superior Court judge, heard and rejected appeals of Leo Frank.

Hixon, Annie – Ursenbach family domestic worker of two years; defense witness.

Holloway, E.F. – National Pencil Company day watchman; worked at the factory 2 years.

Hooker, John J. – attorney involved in the posthumous pardon application for Leo Frank, including the videotaped testimony

of Alonzo Mann in 1982.

Hooper, Frank A. – was Max F. Goldstein's and Arthur G. Powell's law partner; assisted Solicitor General Hugh M. Dorsey in prosecuting Leo Frank for murder.

Hopkins, Daisy – worked in the pencil factory's packing department on the second floor from October 1911 to June 1912; implicated in sexual activity with Leo Frank and C.B. Dalton.

House, Robert – former county policeman; claimed he found Leo Frank in a park with a young girl.

Howard, William Schley – one of Frank's many post-conviction defense attorneys; former prosecutor; also served two terms in the U.S. Congress. Argued for clemency for Frank before the state prison commission and Gov. John Slaton.

Howell, Clark – publisher, owner, and editor of the *Atlanta Constitution*; had served in both the Georgia House of Representatives and the Georgia Senate. Previously, as managing editor of the *Constitution*, he had campaigned against the state's notorious convict lease system.

Hurt, J. W. – M.D.; Fulton County Physician, who made the initial post-mortem examination of Mary Phagan.

Jacobs, Jake – pawnbroker implicated in the infamous "Carter Letters" scheme.

Jefferson, Mrs. George W. – five-year National Pencil Co. employee; together with fellow worker R. P. Barrett discovered the blood evidence on the second floor.

Jeffersonian – a.k.a. *"the Jeff"*; weekly newspaper, published by Thomas E. Watson, became the most vocal proponent of Frank's guilt.

Jones, Ivy – acquaintance of James Conley's; witness for the prosecution.

Kendley, George – streetcar conductor for the Georgia Railway & Power Co.; claimed to have seen Mary as she walked to the factory on the day of the murder; gave testimony used to claim "anti-Semitism" in the Frank case.

Kerns, Helen – defense witness; her father worked for Montag Bros.

Kitchens, Mamie – National Pencil Co. employee of two years who worked on the fourth floor and witnessed Frank barging into the women's dressing room.

Klein, Milton – well-known Atlanta lumber and building supply dealer; B'nai B'rith officer; Leo Frank's friend.

Knights of Mary Phagan – The *New York Times* appears to have invented this group of vigilantes, which it claims was formed to exact revenge on Mary Phagan's murderer. No other evidence exists for this group, which has been charged with Frank's lynching.

Kriegshaber, Victor H. – prominent Atlanta business leader; one of five Jewish jurors on the grand jury panel that indicted Leo Frank; B'nai B'rith officer; member of the board of trustees of the Hebrew Orphans' Home (as was Frank); trustee of Leo Frank's synagogue; Atlanta Chamber of Commerce

president in 1916.

Ku Klux Klan – a white American terrorist group that emerged after the Civil War and again after the First World War; deployed by the white elite to violently repel Blacks' pursuit of education, politics, and economic independence; group is falsely claimed to have emerged from Frank's lynchers.

Lanford, Newport A. – Atlanta Chief of Detectives.

Lasker, Albert D. – Texas-reared (his father was a Confederate veteran), Chicago-based advertising mogul and secret financier of Leo Frank's appeals and director of his public-relations effort; as president of Lord & Thomas, Lasker pioneered new advertising and branding techniques for leading companies; also promoted eugenics and birth control of Blacks. He renamed America's eugenics movement "Planned Parenthood."

Lassiter, R.M. – city policeman; a first responder to scene of crime.

Lee, Newt – night watchman at the National Pencil Company; found the body of Mary Phagan on the morning of April 27, 1913, and was charged with her murder. Lee was the victim of Frank and his advocates' efforts to frame him with planted evidence.

Lehon, Dan S. – Burns detective; indicted for subornation of perjury; convicted of several Frank-related illegalities and fined.

MacWorth, W.D. – Pinkerton "investigator" who planted evidence; an operative for W. J. Burns.

Mangum, C. Wheeler – sheriff of Fulton County, protective of Tower prisoner Leo Frank.

Mann, Alonzo – 13-year-old office boy at the National Pencil Company and present at the factory on the day of the murder. In 1982, he made the dubious claim that he came back to the factory and saw James Conley carrying the body of Mary Phagan.

Marcus, Alexander E. – Lucille Frank's brother-in-law; one of Frank's lawyers in Atlanta.

Marcus, Mrs. A. E. – Lucille Frank's sister; defense witness.

Marietta, Ga. – hometown of the murder victim, Mary Phagan.

Marietta Journal – Marietta, Georgia's weekly newspaper, first printed in 1866.

Marshall, Louis – leading constitutional lawyer; argued more cases before the U. S. Supreme Court than any other private attorney; Frank's lead appeals attorney; president of the American Jewish Committee; noted civic leader, who also promoted eugenics and birth control of Blacks.

Marx, Rabbi David – leader of the Hebrew Benevolent Congregation in Atlanta (a.k.a. The Temple), 1895–1946; served as "ambassador to the Gentiles," the "unofficial voice of the Jewish community"; past president of the Atlanta B'nai B'rith; guest columnist for the *Atlanta Journal*; served as personal pastor to Leo Frank.

McCrary, Truman "Mack" – National Pencil Company drayman for three years; was at the factory on April 26, 1913.

McKnight, Albert – husband of Minola

McKnight; employed as a porter at Beck & Gregg Hardware Co. and as a handyman for the Frank/Selig family; swore to an affidavit damaging to Frank's alibi.

McKnight, Minola – cook for Josephine and Emil Selig and Leo and Lucille Frank; swore to and later repudiated an affidavit in which she claimed to have overheard Leo Frank's wife and mother-in-law discussing Frank's confession.

Milledgeville State Prison Farm – plantation where prisoners grew and picked cotton and other agricultural crops; Leo Frank was confined there, June to August 1915, after his death sentence was commuted to life in prison.

Montag, Sigmund "Sig" – controlled a majority share of National Pencil Company stock. In 1889, Montag and his four brothers established an Atlanta manufacturing and distribution company of school supplies. By 1950, Montag Brothers was one of the largest companies of its industry.

Mullinax, Arthur – 24-year-old former streetcar conductor and acquaintance of Mary Phagan's; arrested on suspicion Sunday, April 27, 1913, then released.

National Pencil Company – 37 South Forsyth Street, Atlanta, Ga.; pencil factory which Leo Frank operated and where 13-year-old Mary Phagan worked and was murdered on April 26, 1913. Incorporated in 1908, and among its incorporators were Moses Frank, Sigmund Montag, Isaac H. Haas, and Jacob R. Haas, all of Atlanta, and George Lennig of New York City—all prominent Jewish

businessmen.

New York Times – Jewish-owned newspaper, the largest in the world, and a full-fledged member of the Leo Frank defense and propaganda team. The "newspaper of record" was published by Tennessee native Adolph Ochs from August 1896 until his death in April 1935.

Nix, D. J. – 19-year-old former office boy at the National Pencil factory, where he worked in 1912.

Ochs, Adolph S. – Tennessee-born owner-publisher of the *New York Times*, which he acquired in 1896; publisher of the *Chattanooga Times* in Nashville, Tn. Ochs was married to Effie Wise, whose father, Isaac Mayer Wise, founded the *Israelite* and whose brother Leo Wise ran it during the Leo Frank Affair.

Pappenheimer, Oscar – Atlanta business magnate, school board member, and stockholder of the National Pencil Company; received the company financial report weekly from Leo Frank; he and members of the prominent Haas family were partners in a furniture company.

Phagan, Mary Anne – 13-year-old worker in the National Pencil Company's metal department, where she was murdered on April 26, 1913; born on June 1, 1899.

Phagan, William J. – farmer and father of Mary Phagan and her 4 siblings; married Fannie Benton in 1891; died in 1899 three months before Mary's birth.

Pickett, E. H. – employee of Beck & Gregg

Hardware Co., where Albert McKnight also worked; was present when Minola McKnight made her affidavit.

Pierce, H. B. – superintendent of the Atlanta branch of the Pinkerton's National Detective Agency at the time of Mary Phagan's murder.

Pinkerton's National Detective Agency – formed in 1850 by the Chicago Police Department's first detective, Allan Pinkerton. By the 1890s, it boasted 2,000 agents and 30,000 reserves; by 1906 there were 20 offices nationwide; reputation as an ex-officio standing army for American business, safeguarding the interests of industry. Hired by Leo M. Frank to investigate the murder of Mary Phagan, until its lead detective publicly stated his belief that Frank was the murderer. In 1917, brought suit against the National Pencil Co. for non-payment, and a judge found in the agency's favor.

Powell, Arthur G. – prominent Atlanta attorney and judge who supported Gov. Slaton's commutation decision. Powell resigned his position as judge for the Court of Appeals to enter private practice in Atlanta in January 1912. In 1914 Powell's law firm represented Leo Frank's hired detectives of the William J. Burns Det. Agency against perjury and other serious charges.

Pride, Arthur – five-year National Pencil Co. employee; defense witness.

Quinn, Lemmie – National Pencil factory foreman; provided dubious exculpatory evidence for Leo Frank.

Ragsdale, Rev. C.B. – Atlanta clergyman who

was caught in perjury scheme orchestrated on behalf of Leo Frank.

Roan, Leonard S. – trial judge in the Leo Frank Case; in the late 1800s had been Luther Rosser's law partner.

Robinson, Ruth – National Pencil Co. employee; witness to Leo Frank's sexual harassment at the factory.

Rogers, W.W. "Boots" – Fulton County officer, with whose help identified the murder victim's body. Would later join the William J. Burns Detective Agency.

Rosser, Brandon, Slaton & Phillips – law firm after 1913 merger of the law offices of Governor-elect John M. Slaton and Leo Frank's defense attorney Luther Z. Rosser. Firm members included Morris Brandon, Stiles Hopkins, Ben Z. Phillips, and Luther Z. Rosser, Jr.

Rosser, Luther Ziegler – defense attorney in the Leo Frank Case; law partner of Gov. John M. Slaton; in the late 1880s had been Leonard S. Roan's law partner in the firm of Roan & Rosser.

Schiff, Herbert G. – assistant superintendent of the National Pencil Co.; with the company about five years.

Schiff, Jacob H. – financier based in New York; managing partner of Kuhn, Loeb and Co.; an executive committee member of the American Jewish Committee; major figure in the 1913 establishment of the Federal Reserve banking system.

Schwartz, Dale M. – ADL board member and attorney who, along with Charles F.

Wittenstein, handled the attempts in the 1980s to have Frank pardoned by the state of Georgia.

Scott, Harry – asst. superintendent of the Atlanta branch of the Pinkerton's National Detective Agency; hired by Leo Frank on April 28, 1913, to investigate the murder of Mary Phagan. His investigation found Frank to be the murderer.

Seigenthaler, John – editor and publisher of *The Tennessean*, which he used in the 1980s effort to exonerate Leo Frank.

Selig, Emil – Lucille Frank's father; Leo Frank's father-in-law; worked in the family business, the Seligs' prosperous West Disinfecting Co. in Atlanta.

Selig, Josephine Cohen – wife of Emil Selig; Lucille Frank's mother; Leo Frank's mother-in-law.

Sherborne, Robert – *Tennessean* reporter.

Slaton, John Marshall – Governor of Georgia, 1913–1915; law partner of Leo Frank's attorney Luther Z. Rosser when in July 1913 their respective law firms formed a partnership and became Rosser, Brandon, Slaton & Phillips; commuted the death sentence of Leo Frank in June 1915.

Smith, Hoke – racist Georgia governor (1907–1909, 1911), U.S. senator (1911–1921), owner-publisher of the *Atlanta Journal* (1887–1900); Reuben R. Arnold was one of his most trusted lieutenants. He was asked to defend Leo M. Frank, but he declined.

Smith, William – attorney hired by the *Atlanta Georgian* to defend James Conley. He later

turned on his client.

Starnes, John – Atlanta police detective.

Stephens, Edward A. – lawyer for the prosecution; assisted Solicitor General Hugh M. Dorsey in prosecuting Leo Frank.

Stover, Monteen – fourteen-year-old National Pencil Co. employee who worked on the fourth floor of the factory; came to factory on the day of the murder and found Frank's office empty, when he swore he had been there all along.

Tedder, Carleton C. – operative for Burns Agency; assistant to Conley's attorney William Smith; a Burns plant and informant.

Tennessean – in March 1982 published Alonzo Mann's account of the Phagan murder.

Thompson, Jerry – *Tennessean* reporter.

Tillander, O. – at the pencil factory April 26 to pick up his stepson's pay.

Tobie, C.W. – head detective, Atlanta division of the William J. Burns Detective Agency; publicly stated that Frank was the murderer.

Ursenbach, Charles F. – Leo Frank's (Christian) brother-in-law; was supposed to go with Frank to a baseball game on the afternoon of the murder. Frank cancelled the outing.

Watson, Thomas (Tom) Edward — attorney, politician, author; publisher and editor of the *Jeffersonian* newspaper and *Watson's Magazine*, for which he wrote several articles about the guilt of Leo Frank. A celebrated criminal defense lawyer, he was in 1913 initially asked to defend Leo M. Frank, but he declined.

*Watson's Magazin*e – monthly literary magazine published by Thomas E. Watson and printed by his Jeffersonian Publishing Company.

White, J. Arthur – husband of Maggie White. He, assisted by coworker Harry Denham, was doing some repair work on the top floor (the fourth floor) of the pencil factory the day of the murder.

White, Maggie – a.k.a. Mrs. Arthur White. Visited her husband at the pencil factory on the day of the murder and saw "a negro" (James Conley) on the first floor, an observation that led to the unraveling of Leo Frank's alibi.

Whitfield, L.P. – Pinkerton "investigator" who planted evidence and also Burns operative convicted of several Frank-related infractions and fined.

Wildauer, Benjamin – prominent Atlanta dentist; formerly on the Atlanta police force; B'nai B'rith treasurer at the time of Leo Frank's conviction.

Wittenstein, Charles F. – ADL attorney who, along with Dale M. Schwartz, handled the attempts in the 1980s to have Frank pardoned by the state of Georgia.

Woodward, James G. – Mayor of the City of Atlanta for 8 years (four separate two-year terms); served as mayor during the Leo Frank affair, from 1913 to 1917, his third and fourth terms. In 1916 he signed into law a residential segregation ordinance.

Wrenn, George – Leo Frank's fellow Tower inmate; brother of Burns operative Jimmy Wrenn; implicated in the infamous Carter

Letters scheme.

Wrenn, Jimmy – Burns agent operating under the alias J. W. Howard; implicated in the infamous Carter Letters scheme.

Leo Frank Case Timeline

1905

July – The Niagara Movement is founded by 29 Black men to set up an organization that has as one of its goals the independent economic development of Black people.

Lynchings: 62

Executions: 156

1906

September – A deadly race riot occurs in Atlanta when whites massacre as many as 50 innocent Blacks and probably many more.

Leo M. Frank graduates from Cornell University with a degree in mechanical engineering.

Lynchings: 65

Executions: 128

1908

August 14 and 15 – Springfield, Illinois, race riot by white unionists targeting Black workers.

August – Leo M. Frank moves to Atlanta to supervise factory operations at the National Pencil Company, becoming its superintendent.

Lynchings: 97

Executions: 115

1909

February – The NAACP, the direct descendant of the Niagara Movement, is formed.

Lynchings: 82

Executions: 139

1911

October – The National Urban League is organized to help Blacks secure equal employment.

Lynchings: 60

Executions: 106

1912

April 14-15 – The *Titanic* sinks. About 1,500 of 2,200 passengers and crewmembers drown.

Mary Phagan is hired at the National Pencil Co.

Lynchings: 61

Executions: 161

1913

February 4 – Rosa Parks, the mother of the Civil Rights Movement, is born in Tuskegee, Alabama.

March 10 – Harriet Tubman, former slave, abolitionist, and freedom fighter, dies.

April 11 – The Wilson administration (1913–1921) begins government-wide racial segregation of federal work places.

April 26 – 13-year-old Mary Phagan is murdered at the National Pencil Company (NPC), where she has worked full time for over a year

April 27 – Mary Phagan's body is discovered by Newt Lee, night watchman of the NPC. Atlanta police arrest Lee. Attorney Luther Z. Rosser is hired by NPC.

April 27 – Arthur Mullinax, former streetcar conductor and acquaintance of Mary Phagan's, is arrested on suspicion in the murder of Mary Phagan.

April 28 – Pinkerton Detective Agency is hired by Leo M. Frank.

April 28 – James Gantt, a former shipping clerk at the National Pencil factory, and Gordon

Bailey, a laborer employed at the National Pencil Company, are arrested on suspicion in the murder of Mary Phagan. The *Atlanta Constitution* offers a reward of $1000; police disperse a white mob threatening to lynch Newt Lee.

April 29 – Leo M. Frank, superintendent of the National Pencil Company, is taken into police custody and identified as a suspect in Mary Phagan's murder.

April 29 – Mary Phagan is buried. Frank is asked by police and his own detective to privately interrogate Newt Lee. A bloody shirt had been found in Lee's home.

April 30 – Coroner's inquest begins.

May 1 – Arthur Mullinax and James Gantt are released; Newt Lee and Leo Frank are still being held. James (Jim) Conley, a sweeper at the factory, is arrested.

May 5 – Paul Bowen is arrested in Houston, Texas, on suspicion of Mary Phagan's murder.

May 6 – A grand jury is formed to review evidence in the case.

May 7 – Police report that someone is planting false evidence and trying to block their investigation.

May 8 – The investigation by the coroner is completed and Newt Lee and Leo Frank are ordered held on the charge of murder of Mary Phagan.

May 9 – 14-year-old NPC employee Monteen Stover comes forward with information that undermines Frank's alibi.

May 16 – Attorney Thomas Felder enters the case, operating covertly on Frank's behalf to bring in the Burns Agency detectives.

May 18 – James Conley, a sweeper at the NPC factory, who had been arrested on May 1, begins to reveal his role helping his boss Leo Frank move and conceal the body of Mary Phagan.

May 19 – C.W. Tobie, an investigator from the William J. Burns Detective Agency, arrives in Atlanta to assist in the investigation of Mary Phagan's murder.

May 22 – Attorney Thomas Felder was caught in secret recordings offering a $1,000 bribe to police officials to obtain documents needed by the Leo Frank defense team.

May 23 – The Phagan grand jury convenes.

May 24 – The Fulton County Grand Jury indicts Leo M. Frank for the murder of Mary Phagan and holds Newt Lee as a material witness.

May 27 – A detective from the Burns Agency withdraws from the case and publicly states his finding that Leo Frank was the murderer of Mary Phagan.

May 30 – James Conley reenacts his role at the factory on the day of the murder for police and reporters, who are impressed that he is telling the truth.

June 3 – Minola McKnight, the Black cook for Leo Frank's family, signs an affidavit saying that she had overheard Frank's wife and her mother discussing Frank's confession to the murder of Mary Phagan.

June 21 – Prominent Atlanta attorney Reuben Arnold announces that he has joined Leo Frank's defense team, declaring: "I do not believe that any white man committed this crime."

June 28 – John M. Slaton is inaugurated as governor of Georgia.

Summer of 1913 – Henry Ford introduces the assembly line, producing a thousand Model Ts daily. Ford also establishes a (then-unprecedented wage of) $5-a-day workday.

July 21 – The Grand Jury of Fulton County decides not to bring an indictment against James Conley.

July 28 – Trial of Leo Frank begins.

August 4 – James Conley begins to testify over three days, for about 16 hours.

August 7 – C.B. Dalton, a railroad carpenter, verifies Conley's story that Dalton and Frank had engaged in immoral sexual behavior with women at the National Pencil factory while Conley watched out on their behalf.

August 12 – Thirteen-year-old office boy Alonzo Mann testifies under oath that he was at the factory and knows nothing of the murder.

August 13 – Mrs. Rae Frank, Leo Frank's mother, leapt to her feet and shouted an anti-Christian epithet at the prosecutor and was removed from the courtroom. Her outburst enters religion into the trial for the first time.

August 18 – Leo Frank takes the witness stand and gives an unsworn statement for four hours but will not allow himself to be cross-examined.

August 25 – Leo Frank is found guilty of the murder of Mary Phagan.

August 26 – Judge Leonard S. Roan sentenced Leo Frank to hang for the murder of Mary Phagan. The execution date is set for October 10.

October 1 – Leo Frank's lawyers file an amended motion for a new trial.

October 22 – The hearing on the motion for a

new trial convenes: Leo Frank's lawyers attempt to get him a new trial.

October 31 – Judge L.S. Roan denies Leo Frank's motion for a new trial. Frank's lawyers subsequently appeal and file a Bill of Exceptions that carries the case to the Supreme Court of Georgia.

November 8 – The American Jewish Committee's executive committee—including scholar Cyrus Adler, attorney Louis Marshall, businessman Cyrus Sulzberger, judge Julian Mack, and banker Jacob Schiff—meets to discuss the case of Leo M. Frank.

December 23 – The Federal Reserve System of private banks is established, providing central private control over the nation's currency and credit.

The fiftieth anniversary of the Emancipation Proclamation is celebrated throughout the year.

Lynchings: 51

Executions: 133

1914

January 7 – Frank's lawyers submit a legal filing rebutting the state's case against their client, and the Georgia Supreme Court postpones any ruling for a month.

February 17 – The Georgia Supreme Court denies Leo Frank's motion for a new trial by a four-to-two vote. The guilty verdict in the trial of Leo Frank is affirmed by the Georgia Supreme Court, and the case is returned to the jurisdiction of the state's lower court, the Fulton County Superior Court to set a new execution date.

February 18 – Adolph Ochs, Jewish owner of the

New York Times, **begins his campaign to exonerate Leo Frank.**

February 24 – James Conley is found guilty of being an accessory after the fact of the murder of Mary Phagan. He is sentenced by Judge Benjamin H. Hill, of the Fulton County Superior Court, to a year on a chain gang for being an accessory after the fact in Mary Phagan's murder.

Leo Frank's defense attorneys file a motion for a rehearing of his case before the Supreme Court of Georgia.

February 25 – The Supreme Court of Georgia unanimously refuses the motion for a rehearing of the appeal of Leo M. Frank for a new trial.

March 7 – Judge Benjamin H. Hill, of the Fulton County Superior Court, resentences Leo M. Frank to death by hanging, with the execution date set for Friday, April 17, 1914, Leo M. Frank's 30th birthday.

March 19 – Attorney Thomas E. Watson publishes his first commentary on the case seven months after the conviction of Leo Frank.

April 12 – A reward of $1,000 is offered by Detective William J. Burns "for satisfactory information in connection with reports that Leo Frank is a pervert or is immoral."

April 16 – Leo Frank's attorneys again move for a new trial. The execution, set for the next day, is postponed. The formal filing of the extraordinary motion for a new trial led to the setting of an April 23 court date, which automatically triggered a stay of execution.

Fulton Bag and Cotton Mill, Atlanta's largest employer, engages in worker exploitation as

a matter of policy, provoking a bitter strike that exposed the rapacious underbelly of post–Civil War industrialization.

May 6 – Judge Benjamin Hill, of the Fulton County Superior Court, overrules and denies the extraordinary motion for a new trial.

June 6 – The Fulton County Superior Court denies the motion to set aside the verdict. Leo Frank's attorneys immediately appeal to the Georgia Supreme Court.

October 14 – The Georgia Supreme Court unanimously upholds Judge Benjamin Hill's denial of Leo Frank's extraordinary motion request for a new trial.

November 14 – The Georgia Supreme Court affirms the trial and judgment in the Leo Frank case.

November 18 – The request by Frank's attorneys for a review of the case is rejected by the Georgia Supreme Court.

December 7 – The U.S. Supreme Court refuses to review the Leo Frank Case.

Mid-December – Judge Benjamin Hill denies Leo Frank's application for a writ of error and sets a new execution date of Jan. 22, 1915.

December 17 – Leo Frank's Atlanta counsel, acting at the behest of Louis Marshall, file a petition for a writ of habeas corpus before Judge William T. Newman of the U.S. District Court of the Northern District of Georgia. Judge Newman subsequently denies the petition for a writ of habeas corpus without even hearing from Leo Frank prosecutor Hugh Dorsey.

December 21 – Judge Newman rejects Frank's motion seeking certification for an appeal to the U.S. Supreme Court. The United States

District Court denies the motion to set aside the guilty verdict. Frank's attorneys appeal to the United States Supreme Court; Frank's execution, set for January 22, 1915, is again delayed.

December 28 – Joseph R. Lamar, U.S. Supreme Court Justice, accepts the petition for habeas corpus, a document issued to bring a party before a court or judge to release the party from illegal imprisonment.

Lynchings: 55

Executions: 99

1915

January 20 – Mrs. J. W. Coleman, mother of Mary Phagan, filed a wrongful death suit against the National Pencil Company. She asked for ten thousand dollars for the death of her daughter. The case was settled out of court.

February 8 – America's first movie blockbuster, D.W. Griffith's film *The Birth of a Nation*, is released; depicts the Ku Klux Klan in a positive light.

April 19 – The U.S. Supreme Court rules against Leo Frank. His execution is set for April 25. Another appeal by Leo Frank's attorneys is turned down by the U.S. Supreme Court.

The United States Supreme Court rejects Leo Frank's last appeal, his case remanded to the Superior Court of Georgia. The U.S. Supreme Court upheld Judge Newman's denial of Frank's petition for relief, by a vote of 7 to 2, and concluded that Frank's constitutional right to due process had not been violated. His execution, already postponed three times, would be re-set (on May 10 by Judge Hill) for

June 22, 1915.

May 7 – The British ship, the *Lusitania*, is torpedoed by the Germans and sinks in the Atlantic; 1,198 passengers drown, including 114 Americans.

May 31 – Georgia Prison Commission hearing begins. Leo Frank's attorneys had previously filed an appeal for clemency with the state prison commission, hoping to have his death sentence commuted.

June 9 – A request for clemency for Leo Frank is rejected by the Georgia Prison Commission.

June 21 – In his last week in office, Georgia governor John Slaton commutes the sentence of Leo Frank from death to life in prison. Frank is transferred from the Fulton County Prison in Atlanta to the Georgia State Penitentiary in Milledgeville. There are demonstrations in the streets of Atlanta and a mob converges on the governor's residence.

June 26 – Seven weeks before the August 17th lynching, a *New York Times* article identifies Frank's future assassins as the "Knights of Mary Phagan."

July 18 – Prisoner J. William Creen slashes Leo Frank's throat; an inmate who was a doctor saves Frank's life.

August 16 – Leo Frank is abducted from prison and taken to Marietta.

August 17 – The previous evening, vigilantes had converged on Milledgeville State Prison Farm (Georgia's state penitentiary). Leo Frank is taken from his bed and driven almost 200 miles to Marietta, Ga., hometown of the murder victim, Mary Phagan. There he is lynched from a tree at Frey's Gin.

August 20 – Leo Frank is buried in Brooklyn,

NY.

November 14 – Booker T. Washington, well-known African-American spokesman, dies.

November 17 – Judge W. D. Ellis, of the Fulton County Superior Court, hears the Pinkerton Detective Agency's lawsuit against the National Pencil Company for non-payment for services rendered.

November – William Simmons reinstitutes the Ku Klux Klan in a ceremony atop Stone Mountain.

Lynchings: 69

Executions: 131

1916

March 23 – Marcus Mosiah Garvey, founder of the Universal Negro Improvement Association (UNIA), arrives in New York and soon builds the largest race-uplift movement of its time in America.

November 7 – Hugh M. Dorsey is elected governor of Georgia.

Lynchings: 54

Executions: 106

1917

February 16 – In November 1915 Pinkerton's National Detective Agency filed a lawsuit against the National Pencil Company for non-payment for services rendered. The Court of Appeals of Georgia ruled in the detective agency's favor.

April 6 – America enters World War I.

May 21 – The "Great Fire" of Atlanta destroys 73 blocks, leaves thousands homeless.

Lynchings: 38

Executions: 77

1918

Hugh Dorsey is re-elected governor of Georgia.

November 11 – End of World War I.

Lynchings: 64

Executions: 89

1920

Tom Watson is elected senator from Georgia.

Lynchings: 61

Executions: 102

1921

William J. Burns is appointed Director of the Bureau of Investigation. Three years later he is forced to resign because of his role in the Teapot Dome Scandal.

Lynchings: 64

Executions: 140

1957

April 23 – Lucille Frank, Leo Frank's widow, dies in Atlanta.

Lynchings: 1

Executions: 69

1962

(exact date unknown) – The state's star witness, James Conley, dies, it is presumed.

Leo Frank trial record is lost or stolen.

Executions: 47

1982

March 4 – Alonzo Mann, in failing health, signs an affidavit in which he claims that as a National Pencil Co. office boy he witnessed James Conley carrying the body of Mary Phagan on the day of the murder.

Executions: 2

1983

January 4 – Based largely on Alonzo Mann's testimony, the Anti-Defamation League submits to the Georgia Board of Pardons and Paroles an application for a posthumous pardon exonerating Leo Frank.

December 22 – The Georgia Board of Pardons and Paroles denies the application for a pardon for Leo Frank. The basis for the decision: applicants did not show conclusively the innocence of Leo Frank.

Executions: 5

1986

March 11 – The Georgia Board of Pardons and Paroles issues a posthumous pardon to Leo Frank on the basis of the state's failure to protect him while in custody, but does not officially absolve him of the crime of murdering Mary Phagan.

Executions: 18

2016

April 26 – The Nation of Islam releases *The Secret Relationship Between Blacks & Jews, Vol. 3, The Leo Frank Case: The Lynching of a Guilty Man.*

Lynchings and Executions, including Police Brutality, continue.

Selected Bibliography

Articles, Books, Lectures, Dissertations, Manuscripts, Archives

Adams, Maurianne, and John Bracey, eds. *Strangers and Neighbors: Relations Between Blacks and Jews in the United States*. Amherst: University of Massachusetts Press, 1999.

Alexander, Michael. *Jazz Age Jews.* Princeton, NJ: Princeton Univ. Press, 2001.

Arnold, Reuben R. *The Trial of Leo Frank: Reuben R. Arnold's Address to the Court in His Behalf*. Baxley, GA: Classic Publishing, 1915.

Baptist, Edward. *The Half Has Never Been Told: Slavery and the Making of American Capitalism*. New York: Basic Books, 2014.

Bauerlein, Mark. *Negrophobia: A Race Riot in Atlanta, 1906*. San Francisco: Encounter Books, 2001.

Bauman, Mark. "Review of And the Dead Shall Rise: The Murder of Mary Phagan and the Lynching of Leo Frank, by Steve Oney." *Georgia Historical Quarterly* 88, no. 2 (Summer 2004).

Bauman, Mark K. "Factionalism and Ethnic Politics in Atlanta." In *Politics and Religion in the White South*, edited by Glenn Feldman. Lexington, KY: University Press of Kentucky, 2005.

_____. "Jewish Community of Atlanta." *New Georgia Encyclopedia*, March 15, 2004, http://www.georgiaencyclopedia.org.

Blackburn, April Elaine. "'In the Midst of the Whirl': Jewish and Catholic Responses to New South Industrialization, 1880-1914." PhD diss., Temple University, Philadelphia, 2002.

Blackmon, Douglas A. *Slavery by Another Name: The Re-Enslavement of Black People in America from the Civil War to World War II*. New York: Doubleday, 2008.

Bronski, Michael. "The Return of the Repressed: Leo Frank Through the Eyes of Oscar Micheaux." *Shofar* 23, no. 4 (Summer 2005): 26-49. Internet resource.

Brown, Stephen A. "When Middle-Class Ambition Met Southern Honor: A Cultural History of the Leo Frank Case." PhD diss., University of Illinois, Chicago, 1999.

Brown, Tom Watson. "Notes on the Case of Leo Max Frank and Its Aftermath." Address to the Symposium Club in Atlanta, Ga., 1982.

Cameron, Wilbert, Jr. "Anti-Semitism and the Leo Frank Case." Master of Arts thesis, University of Cincinnati, Cincinnati, Ohio, 1965.

Crowe, Charles. "Tom Watson, Populists, and Blacks Reconsidered." *Journal of Negro History* 55, no. 2 (April 1970).

Davis, Marni. *Jews and Booze: Becoming American in the Age of Prohibition*. New York: New York University Press, 2012.

Decision by Georgia Governor John M. Slaton to Grant Executive Clemency to Leo Frank. Leo Frank Clemency Application, 1915. Digital Collection, Clemency Applications, Convict and Fugitive Records, Governor's Office, RG 1-4-42, Georgia Archives. Internet resource.

Dinnerstein, Leonard. "Atlanta in the Progressive

Era: A Dreyfus Affair in Georgia." In *The Age of Industrialism in America: Essays in Social Structure and Cultural Values*, edited by Frederic Cople Jaher. New York: Free Press, 1968.

_____. *The Leo Frank Case.* 1966. Reprint, Athens, GA: University of Georgia Press, 1987.

_____. "Leo M. Frank and the American Jewish Community." *American Jewish Archives Journal* 20, no. 2 (Nov. 1968).

Dittmer, John. *Black Georgia in the Progressive Era, 1900-1920.* Urbana: University of Illinois Press, 1977.

Dorsey, Hugh M. *Argument of Hugh M. Dorsey, Solicitor General, Atlanta Judicial Circuit, at the Trial of Leo M. Frank, Charged with the Murder of Mary Phagan*. Macon, GA: N. Christophulos, 1914.

Fink, Gary M. *The Fulton Bag and Cotton Mills Strike of 1914–1915: Espionage, Labor Conflict, and New South Industrial Relations.* Cornell Studies in Industrial and Labor Relations, no. 28. Ithaca, NY: ILR Press, 1993.

Frank, Leo. *In the Supreme Court of Georgia, Fall Term, 1913, Leo M. Frank, Plaintiff in Error, vs. State of Georgia, Defendant in Error: In Error from Fulton Superior Court at the July Term, 1913: Brief of the Evidence.* Georgia: s.n, 1913.

Frey, Robert Seitz, and Nancy C. Thompson. *The Silent and The Damned: The Murder of Mary Phagan and the Lynching of Leo Frank.* 1988. Reprint, New York: Cooper Square Press, 2002.

Ginzburg, Ralph. *One Hundred Years of Lynchings.* 1962. Reprint, Baltimore: Black Classic Press, 1988.

Golden, Harry. *A Little Girl Is Dead.* Cleveland, OH: World, 1965.

"Hearing before Gov. John M. Slaton re Commutation of the Death Sentence of Leo Frank." Atlanta, Ga., June 12-16, 1915. Transcript. Special Collections, Robert W. Woodruff Library, Emory University, Atlanta, GA.

"Hebrews of Atlanta: The Important Part They Have Taken," *Atlanta Constitution*, January 12, 1890.

Hertzberg, Steven. "The Jewish Community of Atlanta: From the End of the Civil War until the Eve of the Frank Case." *American Jewish Historical Quarterly* 62, no. 3 (March 1973).

_____. "Southern Jews and Their Encounter with Blacks: Atlanta, 1850-1915." *Atlanta Historical Journal* 23 (1979).

_____. *Strangers Within the Gate City: The Jews of Atlanta, 1845-1915.* Philadelphia: Jewish Publication Society of America, 1978.

Hühner, Leon. "Jews of Georgia in Colonial Times." *Publications of the American Jewish Historical Society*, vol. 10 (1902).

Johnson, Edgar Hutchinson. "The Leo Frank Case." Master's thesis, Florida State University, 1966.

Jones, Charles C. "The Settlement of the Jews in Georgia." *Publications of the American Jewish Historical Society*, vol. 1 (1893).

Kean, Mary Phagan. *The Murder of Little Mary Phagan.* Far Hills, NJ: New Horizon Press, 1987.

Kuhn, Clifford M. *Contesting the New South Order: The 1914-1915 Strike at Atlanta's Fulton Mills*. Chapel Hill: University of North Carolina Press, 2001.

Lasker, Albert D. Interview by Boyden Sparkes. Transcript. 1937. Albert D. Lasker Collection, Charles Deering McCormick Library of Special

Collections, Northwestern University Library, Evanston, IL.

Leavey, Jane D., ed. *Seeking Justice: The Leo Frank Case Revisited*. Atlanta: William Breman Jewish Heritage Museum, 2008.

Light, Carolyn E. *That Pride of Race and Character: The Roots of Jewish Benevolence in the Jim Crow South*. New York: New York University Press, 2014.

Lindemann, Albert S. *The Jew Accused: Three Anti-Semitic Affairs (Dreyfus, Beilis, Frank), 1894–1915*. Cambridge: Cambridge University Press, 1993.

MacLean, Nancy. "The Leo Frank Case Reconsidered: Gender and Sexual Politics in the Making of Reactionary Populism." *Journal of American History* 78 (December 1991).

Marcus, Jacob Rader. *Early American Jewry*. Volume 2. Philadelphia: Jewish Publication Society of America, 1951.

Melnick, Jeffrey. *Black–Jewish Relations on Trial: Leo Frank and Jim Conley in the New South*. Jackson: University Press of Mississippi, 2000.

_____. "'The Night Witch Did It': Villainy and Narrative in the Leo Frank Case." *American Literary History* 12, no. 1/2 (Spring – Summer 2000).

Nation of Islam. *The Secret Relationship Between Blacks and Jews.* Volume 1. Chicago: Nation of Islam, 1991.

_____. *The Secret Relationship Between Blacks and Jews.* Volume 2. *How Jews Gained Control of the Black American Economy*, 2nd ed. Chicago: Nation of Islam, 2010.

Oney, Steve. *And the Dead Shall Rise: The Murder of*

Mary Phagan and the Lynching of Leo Frank. New York: Pantheon Books, 2003.

Oxman, Daniel K. "California Reactions to the Leo Frank Case." *Western States Jewish Historical Quarterly* 10, no. 3 (April 1978).

Pinkerton Detective Agency Investigation Reports. May 1913. Leo M. Frank Papers, American Jewish Archives, Cincinnati, OH.

Postal, Bernard. "Jews in the Ku Klux Klan: Klan-Like Organizations Have Existed Since the Adoption of the Constitution; Jews Played a Part in All of Them." *Jewish Tribune*, September 14, 1928.

Rascoe, Burton. *The Case of Leo Frank: A Factual Review of One of the Most Sensational Murder Cases in Court Annals*. Girard, KS: Haldemann-Julius, 1947.

Roberts, DeWitt H. "Anti-Semitism and the Leo M. Frank Murder Case." Report for the Anti-Defamation League, ca. 1953, American Jewish Archives, Cincinnati, OH.

Rockoff, Stuart Allen. "Jewish Racial Identity in Pittsburgh and Atlanta, 1890–1930." PhD diss., University of Texas at Austin, 2000.

Rogers, William Curran. "A Comparison of the Coverage of the Leo M. Frank Case by the Hearst-Controlled Atlanta *Georgian* and the Home-Owned Atlanta *Journal*, April 28, 1913–August 30, 1913." Master's thesis, University of Georgia, 1950.

Samuels, Charles, and Louise Samuels. *Night Fell On Georgia.* New York: Dell, 1956.

Schulman, Jason. "The *Yahudim* and the Americans: The Leo Frank Affair as a Turning Point in Jewish-American History." *History Matters* (Spring 2007), Dept. of History, Appalachian State University.

Internet resource.

Shankman, Arnold. “Atlanta Jewry—1900–1930.” *American Jewish Archives* 25, no. 2 (November 1973).

A Statement from Governor Hugh M. Dorsey As to the Negro in Georgia. Atlanta, Ga., 1921.

U.S. Supreme Court. *Frank v. Mangum*, 237 U.S. 309 (1915).

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1 Nation of Islam, *The Secret Relationship Between Blacks and*

Jews, vol. 2, *How Jews Gained Control of the Black American Economy,* 2nd ed. (Chicago: Nation of Islam, 2010) (hereafter cited as *The Secret Relationship*).

2 Stuart Allen Rockoff, "Jewish Racial Identity in Pittsburgh and Atlanta, 1890-1930" (PhD diss., Univ. of Texas at Austin, 2000), 218.

3 "ADL's History in Brief: The Beginning: 1913" section of the 2003 press release titled "ADL Marks 90 Years of Action and Advocacy," 2003, Anti-Defamation League, http://archive.adl.org/PresRele/Mise_00/4227_00.html.

4 Melnick, *Black-Jewish Relations*, 8, 39-42, 130; Yvonne D. Newsome, "A House Divided: Conflict and Cooperation in African American–Jewish Relations" (PhD diss., Northwestern Univ., 1991), 86; Hasia Diner, *In the Almost Promised Land: American Jews and Blacks, 1915-1935* (1977; reprint, Baltimore, MD: Johns Hopkins Univ. Press, 1995), 20; David Levering Lewis, "Parallels and Divergences*:* Assimilationist Strategies of Afro-American and Jewish Elites from 1910 to the Early 1930s," in *Strangers and Neighbors: Relations between Blacks and Jews in the United States,* eds. Maurianne Adams and John Bracey (Amherst: Univ. of Massachusetts Press, 1999), 334.

5 Dinnerstein, *Leo Frank Case*, 157; *Bnai Brith News*, Oct. 1913.

6 Oney, *ATDSR*, 9, 10-11; *AJ*, May 2, 1913, 5.

7 The Federal Reconstruction period (1865-1877) followed the Civil War (1861-1865). In 1890, Georgia had 4,285 factories, with its businesses worth $57 million ($1.4 billion today); in 1900, it had 7,504 factories and by 1910 the value of its businesses exceeded $200 million ($3.7 billion today). The masses of Blacks, as in slavery, remained confined to agricultural labor and conditions of poverty and debt peonage. See Don Dodd and Wynelle S. Dodd, *Historical Statistics of the South, 1790-1970* (University, AL: Univ. of Alabama Press, 1973), 18-21; "New Pencil Factory," *The American Stationer*, April 18, 1908, 34.

8 *Brief*, 75, 77.

9 Howard Simons, *Jewish Times: Voices of the American Jewish Experience* (Boston: Houghton Mifflin, 1988), 21. Christian Boone, "100 years later, Leo Frank's lynching in Ga. still resonates," *Atlanta Journal-Constitution*, Aug. 15, 2015, http://www.ajc.com/news/news/crime-law/100-years-later-leo-frank-lynching-still-resonates/nnJ8j/: "'He operated a sweatshop. He employed teenage girls…' [Steve] Oney said."

10 Stephen A. Brown, "When Middle-Class Ambition Met Southern Honor: A Cultural History of the Leo Frank Case"

(PhD diss., Univ. of Illinois, Chicago, 1999), 199-203.

11 Oscar Pappenheimer, "A Practical Suggestion," letter to the editor, *AC,* Oct. 10, 1906, 8; Hertzberg, *Strangers,* 193.

12 On the wages and salaries of the factory's employees, there are several sources, some conflicting. According to the Pinkerton Report filed by L.P. Whitfield, May 2, 1913, 1, Mary Phagan's salary was $4 per week. According to Mary Phagan Kean, Mary worked "up to 55 hours a week for little more than seven cents an hour." Boone, "100 years later." See *AG*, May 1, 1913, 2; *AC*, Aug. 5, 1913, 3; Nancy MacLean, "The Leo Frank Case Reconsidered: Gender and Sexual Politics in the Making of Reactionary Populism," *Journal of American History* 78, no. 3 (Dec. 1991), 931 n. 31: "Of southern working women over the age of sixteen, 68% earned under six dollars a week in 1907, 92.5% under eight dollars. Younger workers…earned considerably less."

13 Leslie Fiedler, "Some Jewish Pop Art Heroes," chap. 10 in *The Collected Essays of Leslie Fiedler*, vol. 2 (New York: Stein and Day, 1971), 135. Also quoted in Melnick*, Black–Jewish Relations,* 57. About the factory conditions see *Brief*, 16, 28, 30, 32, 35, 36, 77, 80, 87, 105, 107, 119, 133, 148; *AJ,* Aug. 22, 1913, 10.

14 MacLean, "The Leo Frank Case Reconsidered," 927; Dinnerstein, *Leo Frank Case*, 7,180-81 n. 21; Frederic Cople Jaher, "Leo Frank: A Definitive Reassessment," review of *And the Dead Shall Rise: The Murder of Mary Phagan and the Lynching of Leo Frank*, by Steve Oney, *Midstream* 50, no. 7 (Nov.–Dec. 2004), 36; April Elaine Blackburn, "'In the Midst of the Whirl': Jewish and Catholic Responses to New South Industrialization, 1880-1914" (PhD diss., Temple Univ., 2002), 121. See also "Moral Clean-Up Urged for City: Eliminate White Slave Traffic, Says Vice Commission," *AC*, Oct. 8, 1912, 5.

15 *Jeffersonian*, Sept. 9, 1915, 2. See Oney, *ATDSR,* 6; *AG*, Apr. 26, 1913; *AC*, May 4, 1913; *AC*, Apr. 27, 28, 1913. Also, Jaher, "Leo Frank," 36; Thomas E. Watson, "The Conditions Which Roosevelt Found Among the Working Girls," *Jeffersonian*, Jan. 30, 1913, 1. Two days after the murder of Mary Phagan the Southern Conference on Women and Child Labor was convened in Meridian, Mississippi, with opening remarks by the local rabbi, Max Raisin. *American Israelite,* May 1, 1913, 6.

16 *AG,* Apr. 30, 1913, home ed., 1; *AG,* May 5, 1913, night extra ed., 2; *AG,* Apr. 28, 1913, 4. *AC,* Apr. 30, 1913, 5: "[I]f children of such tender years were not forced to work, little Mary Phagan would probably never have been murdered," declared Dr. A. J. McKelway, president of the

Southern Sociological Congress.

17 See *The Secret Relationship,* 2:286-317, for a description of the Southern sharecropping system.

18 MacLean, "The Leo Frank Case Reconsidered," 921-22; Leonard Dinnerstein, "Atlanta in the Progressive Era: A Dreyfus Affair in Georgia," in *The Age of Industrialism in America: Essays in Social Structure and Cultural Values*, ed. Frederic Cople Jaher (New York: Free Press, 1968), 133, 142-43; Melnick, *Black–Jewish Relations,* 68; Dinnerstein, *Leo Frank Case*, 10. Between 1870 and 1930 the number of women in the workforce increased threefold. Brown, "When Middle-Class Ambition Met Southern Honor, 114. By 1920, "42 percent of all Atlanta women aged sixteen and over had joined the work force." See Jacquelyn Dowd Hall, "O. Delight Smith's Progressive Era: Labor, Feminism, and Reform in the Urban South," in *Visible Women: New Essays on American Activism*, eds. Nancy A. Hewitt and Suzanne Lebsock (Urbana, IL: Univ. of Illinois Press, 1993), 172.

19 Dinnerstein, *Leo Frank Case*, 10; Melnick, *Black–Jewish Relations*, 51, 64, 81. Mary's mother declared that she never would have permitted Mary to go out to work, "if it hadn't been that there were five children in the family…" *AG*, Apr. 28, 1913, 3. And Mary, having reached the age of only 13 at the time of her death, had previously worked at a knitting mill in Marietta, Georgia. *AC*, Apr. 30, 1913, 2.

20 Phagan Kean, *The Murder*, 160; Lindemann, *The Jew Accused*, 263, 240; MacLean, "The Leo Frank Case Reconsidered," 929, 935; Dinnerstein, *Leo Frank Case,* 98. Melnick, *Black–Jewish Relations,* 104, 32: "The factory would be one kind of plantation…" White Southern males had readily left their communities to fight for the Confederacy, leaving the white female in the care *and protection* of Black male slaves—with nary a discussion or fear of Black male aggression.

21 "Moral Clean-Up Urged for City: Eliminate White Slave Traffic, Says Vice Commission," *AC*, Oct. 8, 1912, 5. Edward Bristow, "The German-Jewish Fight Against White Slavery," *Leo Baeck Institute Yearbook* 28, issue 1 (1983), 301: "In the three decades after 1880 Jews played a conspicuous role in 'white slavery', as the commercial prostitution of that era was dramatically called....The scope of Jewish white slavery was breathtaking." Edward J. Bristow, *Prostitution and Prejudice: The Jewish Fight against White Slavery, 1870-1939* (New York: Oxford Univ. Press, 1982); Robert Rockaway, review of *Prostitution and Prejudice: The Jewish Fight Against White Slavery*,

1870-1939, by Edward J. Bristow, in *Studies in Contemporary Jewry*, vol. 2, ed. Peter Y. Medding (Bloomington, IN: Indiana Univ. Press, 1986), 310. See also Nelly Las, "White Slavery," *Jewish Women: A Comprehensive Historical Encyclopedia*, March 1, 2009, Jewish Women's Archive, http://jwa.org/encyclopedia/article/white-slavery.

22 Dinnerstein, "Atlanta in the Progressive Era," 139.

23 At the coroner's inquest Leo Frank testified that he had arrived at the factory at 8:25 a.m. on Saturday; later at trial he changed the time to 8:20 a.m. *Brief*, 22, 31, 52, 177; "FRANK ON WITNESS STAND," *AG*, May 5, 1913, 1, 2. On payday, see *Brief*, 16; *AC,* Aug. 19, 1913, 2.

24 *Brief*, 42; "Girl Asked for Mary Phagan's Pay But Was Refused by Frank," *AC*, Aug. 3, 1913, 4. According to National Pencil Co. clerk James Gantt, allowing a worker to collect the pay of a fellow employee "was frequently done." See "Gantt, Once Phagan Suspect, On Stand Wednesday Afternoon," *AC*, July 31, 1913, 4.

25 *Brief*, 2-3, 13, 21, 22, 26, 29, 30, 31, 32, 35, 52, 54, 69, 70, 71, 74, 75, 79, 83-85, 101, 102, 103-104, 106, 107-108.

26 *Brief*, 1, 22, 7, 186; Oney, *ATDSR,* 5, 8-9; *AC,* May 1, 1913, 1; *AC,* May 6, 1913, 2.

27 *AG*, May 5, 1913, 2; also, *AJ*, July 31, 1913, 5; *AC*, Aug. 2, 1913, 2.

28 *Brief,* 22, 25. This testimony came from Detective Harry Scott, assistant superintendent of the local branch of the Pinkerton Detective Agency, who had interviewed Frank on April 28th. The agency had been hired by Frank himself. See also *AC,* Aug. 19, 1913, 2; *AJ*, July 31, 1913, 1; *AJ,* May 6, 1913, 11; *AC,* May 6, 1913, 2; *AC,* Apr. 29, 1913, 1. In his testimony at the inquest (the only sworn testimony he ever gave on the murder), Frank in answer to the coroner's query "Had the metal of which Mary Phagan spoke come at that time?" stated: "I don't think it has come yet." See *AG*, May 5, 1913, 2.

29 *Brief*, 7-8, 26, 44, 45, 46, 47. In *AG,* Apr. 28, 1913, 5, the cord is described as a "strong piece of twine" and "a big twine."

30 *Brief*, 57-58. See *AC*, Aug. 6, 1913, 2.

31 *AC,* Apr. 30, 1913, 1; *Brief*, 2-3, 5, 18, 20, 244; "Negro Watchman Tells Story of Finding Girl's Body…" *AJ,* Apr. 30, 1913, 1, 6; "Newt Lee Tells His Story During Morning Session," *AC,* May 1, 1913, 3; "Newt Lee On Stand At Inquest Tells His Side of Phagan Case," *AG,* Apr. 30, 1913, final ed., 1, 2; "Complete Summary of Testimony of Witnesses at Inquest," *AJ,* Apr. 30, 1913, 6. Gantt had been

at the factory three or four times after he had been discharged. *Brief*, 33.

32 Frank said he called to make sure Gantt had left (*Brief*, 201), but Lee said Frank did not ask about Gantt (*Brief*, 3). Also, *Brief,* 305-6.

33 *Brief*, 3.

34 Those unanswered phone calls are covered in the *Brief*, 11-12, 40, 111, 112, 127, 129, 147, 202, 252. Also see *Brief,* 4, 6, 7; *AC,* July 30, 1913, 2; *AC,* Aug. 3, 1913, 2.

35 *Brief*, 7-8, 9, 43, 46, 47, 48; *AC*, Aug. 2, 1913, 3.

36 *Brief*, 21, 137; *AC*, Apr. 28, 1913, 1, 2; *AC*, Apr. 29, 1913, 1; *AC*, Apr. 30, 1913, 1; *AG*, Apr. 28, 1913, 1; *AG*, Apr. 29, 1913, 1, 2, 3; *AG*, Apr. 30, 1913, 1, 2; *AJ*, Apr. 28, 1913, 1, 3; *AJ*, Apr. 29, 1913, 1, 4, 5. A white man named Paul Bowen was arrested on Monday, May 5th, in Houston, Texas, on suspicion of Mary Phagan's murder. He was released the next day. See *AC*, May 7, 1913, 1; *AG*, May 6, 1913, night ed., 1, 2.

37 "John M. Gantt Accused of the Crime," *AG,* Apr. 28, 1913, 2; *AC*, Apr. 29, 1913, 1, 2. "Old Police Reporter Analyzes Mystery," *AG,* May 4, 1913, 2A:

> It was perfectly clear…that the public was willing to put the extraordinary act in the category known as "negro crimes," and the sentiment of the streets was that Lee was guilty or knew the guilty man....The Phagan case is not a "white man's crime," or if it is a white man's crime, it is extraordinary and most unusual.

Even Mary Phagan's stepfather believed Lee guilty: "Stepfather of Dead Girl Outspoken Against Lee," *AG*, Apr. 29, 1913, extra no. 5, home ed., 2; "Stepfather Thinks Negro Is Murderer," *AJ*, Apr. 29, 1913, 5; "Negro Watchman Is Accused By Slain Girl's Stepfather," *AG*, Apr. 29, 1913, extra ed., 1.

38 *Brief*, 10, 47, 49, 50. "Old Police Reporter Analyzes Mystery," *AG,* May 4, 1913, 2A: "[W]hile it might be classed as a 'negro crime,' nevertheless Lee's story was unshaken…he did not act in a guilty manner, for it was he who notified the police instead of running away, as a scared rabbit, as nearly every negro does when he is guilty or even accused of crime." James B. Nevin, "Mary Phagan's Death Only Assured Fact Developed," *AG,* May 11, 1913, 2A: "If Lee committed the crime, he is a most unusual negro.... [H]e is the most astonishing negro that ever came under my observation." See also *Brief*, 32, where factory manager N. V. Darley said: "Newt Lee seemed to be thoroughly composed." But the *Atlanta Constitution* seemed ready to implicate Lee despite the clear testimony of police: "Girl is

Assaulted and Then Murdered," *AC,* Apr. 28, 1913, 1: "The watchman stood at the Forsyth street entrance holding a lantern. He was trembling...and he was visibly excited." And in "Mullinax Held In Phagan Case," *AC,* Apr. 28, 1913, 2: At the police station handcuffed to a chair Lee was "nervous, irritable, constantly tapping his fingers..."

39 *Brief,* 10, 12, 14, 17, 93, 202, 205. For county police officer and future bailiff W. W. "Boots" Rogers' testimony at the coroner's inquest, see *AJ*, May 8, 1913, 8. As the Jewish writer Leslie Fiedler wrote, "True enough, Frank behaved oddly in his first encounters with the police, appeared guilty of something (though God knows what), evasive, shifty; and by all accounts he seems to have been a singularly unappealing young man." Fiedler, "Some Jewish Pop Art Heroes," 135.

40 *Brief*, 42-43.

41 *Brief*, 10, 32-33. According to one of the police officers, "Lee was composed at the factory; he never tried to get away." Also, *AJ*, May 8, 1913, last ed., 1.

42 Lindemann, *The Jew Accused*, 245: "Still further evidence, much more palpable and persuasive, pointed in Frank's direction."

43 *Brief*, 12. There is controversy on this point. See ibid., 14-15, 17, 19.

44 *Brief*, 3, 57. See also "Negro Watchman Tells Story of Finding Girl's Body and Questions Fail to Shake Him," *AJ*, Apr. 30, 1913, 6; "Did Murderers Plan Cremation?" *AC,* Apr. 30, 1913, 14.

45 "Pinkertons Hired To Assist Police," *AC,* Apr. 29, 1913, 1: "Last night the Pinkerton detective department was engaged by Leo M. Frank…to aid the local officers…" Also *AC,* May 12, 1913, 1; "Factory Head Taken Into Custody; Lawyer, Barred, Later Admitted To Client," *AG,* Apr. 29, 1913, extra no. 5, home ed., 2; *Brief,* 17, 18, 29, 41; *AJ*, Apr. 28, 1913, last ed., 1. Harry Scott said Leo Frank called him up Sunday afternoon. See *AG*, May 8, 1913, 2.

46 *AC,* Apr. 29, 1913, 1: "It was largely upon Frank's testimony that the search for Gantt continued." In fact, Gantt knew Mary Phagan's family, but had no romantic interest in her as Frank implied. See *AC*, Apr. 29, 1913, 3; *AJ*, Apr. 29, 1913, 4; *AG*, Apr. 29, 1913, 3.

47 *Brief,* 9-11, 19, 22-3, 26-28, 30, 33, 43, 45-46, 77, 92-93, 96-97; 105-107, 110, 118-21, 138, 211, 214. Mary's stepfather, J.W. Coleman, swore that "as far as he could tell the hair was Mary's." Also, *AC*, Apr. 29, 1913, 1; *AJ*, Apr. 28, 1913, 3; *AJ,* Feb. 21, 1914; *AJ,* May 1, 1914.

48 *AJ*, Aug. 12, 1913, 5; *AJ*, May 6, 1913. This "heavy cord"

was described in *AG*, Apr. 28, 1913, 5, as a "strong piece of twine" and "a big twine."

49 *Brief*, 22, 24, 25, 26; *AG,* May 10, 1913, 1; *Pinkerton*, filed by Harry Scott, May 3, 1913, 3. Frank's testimony at the inquest: *AG*, May 5, 1913, 2; *AG*, May 6, 1913, 2; *AC*, May 6, 1913, 2; *AJ*, May 6, 1913, 11; *AJ*, May 7, 1913, 1, 18. See also trial testimonies of Pinkerton detective Harry Scott and National Pencil Company employee Monteen Stover, in *AJ*, July 31, 1913, 1, 5, 6; and Frank's unsigned statement made to police, in the presence of his attorney Luther Rosser, on April 28, 1913, in *Brief*, 243; Oney, *ATDSR*, 49-50, 655 note to p. 49.

50 "Frank Tried to Flirt With Murdered Girl Says Her Boy Chum," *AC,* May 1, 1913, 1, 2; *AG*, May 1, 1913, 2.

51 *Brief,* 224-29, 246-47; "Cook Says She Signed Affidavit in Order to Get Out of Jail," *AC,* Aug. 13, 1913, 3.

52 *AG,* May 12, 1913, 1: "Mrs. Frank [paid] her first visit to her husband since his arrest nearly two weeks ago." Also, *Brief,* 219, 247; "Mrs. Frank Writes About Phagan Case," *AC,* June 8, 1913, A3; *AC*, Aug. 28, 1913, 5; *AC*, Feb. 19, 1914, 1.

53 The newspapers continued to protect Frank's prestige and seemed unable to say he was arrested: he was "held," "questioned," "detained," for "his own protection"—all other suspects were *arrested*. In fact, one paper explicitly pointed out that Frank "is *not* under arrest"! See *AG*, Apr. 29, 1913, extra no. 5, home ed., 2, 1: "…Frank will be held on the technical charge of 'suspicion.' He will not be placed in a cell, but he will be under guard."

54 Herbert Asbury, "Hearst Comes to Atlanta," *American Mercury*, Jan. 1926, 90.

55 *Brief*, 208-9, 116. They included Mr. and Mrs. Alex Marcus, Arthur Haas, Ed Montag, Marcus Loeb, Henry Bauer, Mr. and Mrs. Charlie Ursenbach, Mr. and Mrs. Sig Selig, Ike Haas, Edgar Haas, Montefiore Selig, Mr. and Mrs. Paul Lippman, Mr. and Mrs. Ike Strauss, and Mr. and Mrs. Carl Wolfsheimer. In fact, a B'nai B'rith officers' meeting had been scheduled for Sunday morning.

56 *Brief*, 22, 93, 130, 211; *AC,* Apr. 30, 1913, 2; "Pinkerton Detective Tells of Call From Factory Head," *AG*, May 8, 1913, 2.

57 *AC,* Apr. 28, 1913, 2; *AC,* Apr. 30, 1913, 2; *AJ*, Apr. 30, 1913, 7: According to Leo Frank, "Lee has been unusually faithful about his duties at the factory."

58 "Lee's Guilt Proved," *AG,* Apr. 29, 1913,1. Also, "Mayor Confers With Chief; Says Extras Are Misleading," *AC*, Apr. 30, 1913; "Business Men Protest Sensational 'Extras,'" *AJ*,

Apr. 30, 1913, 1. Oney, 65, quoting *AJ*, July 31, 1913: "an officer of the court" said " 'Frank was trying to point suspicion at Newt Lee…'" Explaining his motive in asking a question of Officer John Black, Solicitor Hugh Dorsey said, "I want to show that Frank was trying to point suspicion at Newt Lee." *AJ*, July 31, 1913, 4. See also "'Looks Like Frank Is Trying To Put Crime On Me,' Says Lee," *AG,* Apr. 30, 1913, afternoon extra ed., 1. In *Brief,* 19, John Black: "Mr. Frank had told me that he didn't think Newt Lee had told all he knew about the murder."

59 *AG,* May 1, 1913; *AG*, May 19, 1913, extra ed., 2.

60 "Nude Dancers' Pictures," *AG,* Apr. 29, 1913, extra no. 6, night extra ed., 4; "Suggestive Pictures on Walls," *AG,* Apr. 29, 1913, extra ed., 3; *Brief,* 19, 234. It may be subliminally significant that Frank misidentified Lee as the janitor—he was the watchman. The janitor, as we shall see, was indeed "bribed" many times by Frank himself to "allow them [criminals] in the building."

61 *Brief,* 4, 7, 24, 216-17, 305; "Leo M. Frank Holds Conference With Lee," *AC*, Apr. 30, 1913. Lee's previous employer T.Y. Brent was brought in to assist in the interrogation. See *AC*, Apr. 29, 1913, 2. Golden, *A Little Girl Is Dead*, 37, writes Frank could hear the police beating Lee, but Lee does not say this ever happened—see *Brief,* 7. Frank later claimed the police "did everything but beat" Newt Lee. *Brief,* 217.

62 *Brief*, 4; *AJ*, May 9, 1913, 6: Responding to Newt Lee's reference to the possibility of the murder having taken place on the second floor, Leo Frank said: "Let's don't talk about that. Let that go."

63 *AC*, May 9, 1913, 2. It was a mystery what Frank meant by "We are not talking about that now," or "If you keep *that* up…" Frank recounts this episode under oath at the coroner's inquest. See *AJ*, May 6, 1913, 11. But then Lee's testimony at the coroner's inquest cleared "that" up: "I told him [Mr. Frank] that the killing must have been done in the daytime, as all that night I had to pass once every thirty minutes by the machine where they said the little girl was killed. He wouldn't let me talk about it." See *AC*, May 9, 1913, 2, col. 3. The same issue (page 6) reported that Det. Harry Scott testified that Lee "said he had started to describe to Mr. Frank how he had found the body and that Mr. Frank said, 'Let's don't talk about that any more'…"

64 *Brief*, 24.

65 See "Pinkerton Chief Is Scored By Lanford," *AG*, July 28, 1913, 1; *AC*, July 27, 1913, 4: Chief Lanford "denounced

H.B. Pierce, general superintendent of the Atlanta Pinkerton forces, for alleged questionable procedure in the Phagan investigation." Lanford added, "During [Detective Scott's] absence from the city recently" planted evidence "was found" in the pencil factory and "their discovery was kept a secret while they rested in the hands of the defense."

66 The *Atlanta Constitution* ("The Case of Mary Phagan," May 4, 1913) asked, "Who Planted the Evidence?" and questioned whether "there was someone at large who was very, very busy while Newt Lee, Leo Frank, Arthur Mullinax and J.M. Gantt languished in jail? Again—the mystery! Who had been 'planting' evidence? And why?" Missing from the list was Gordon Bailey. Clearly, only one of the named detainees, Leo Frank, had both the means and the motive for that tactic. See also "Stains of Blood on Shirt Fresh, Says Dr. Smith," *AC*, May 8, 1913.

67 "Lee Says Frank Acted Oddly," *AG*, July 28, 1913, 1, 2. Also, "Clock 'Misses' Add Mystery…" *AG*, Apr. 30, 1913, 3.

68 *Brief*, 4, 13-14, 33, 205; *AJ*, Apr. 30, 1913, 1, 6. Frank claimed he had handed the time slip to a policeman, but when asked by the coroner "What officers?" he answered, "I don't remember." "Superintendent Frank Is Once More Put on Witness Stand," *AJ*, May 9, 1913, 6. Also, *AG*, May 9, 1913, 2; *AC*, May 9, 1913, 2.

69 *Brief,* 3, 4, 13-14, 17, 19, 24, 33-35, 37, 39, 201, 204-05, 209-10, 234, 253-54. See also "Watchman Newt Lee On Stand Tells His Own Story," *AG*, Apr. 30, 1913, 2; *AC*, Apr. 30, 1913, 1; *AC*, May 1, 1913, 3; *AG,* May 11, 1913, 1, 2A.

70 A police officer also viewed the time slip and confirmed the punches had been made correctly by Newt Lee: "I looked at the slip that Mr. Frank took out (Defendant's Exhibit I), the first punch was 6:01, the second one was 6:32 or 6:33. He took the slip back in his office. I glanced all the way down and there was a punch for every number." *Brief*, 13-14.

71 "'LEE'S GUILT PROVED' DETECTIVES ASSERT: Suspicion Lifts From Frank; May Be Freed…" *AG*, Apr. 29, 1913; *AG*, Apr. 30, 1913, extra no. 8 ed., 1.

72 "$1,000 Reward," *AC*, Apr. 29, 1913, 4. This language was strongly moderated over time once it became clear that the murderer might very well be the white, Jewish president of the local B'nai B'rith.

73 Emphasis ours. *AG*, Apr. 29, 1913, extra no. 8 ed., 2, 1.

74 *AC,* Apr. 29, 1913, 2. At Mary Phagan's funeral this was reported:

> "The nigger knows all about it," growled a

> sunburnt farmer, a wry humorless smile disfiguring his face. “And I could make him talk. Oh yes, if we had that scoundrel in Marietta we’d know how to get him to talk. We’d make him be polite. He’d talk just as pretty as you please for us. Either that or something else.”

See “While Hundreds Sob Body of Mary Phagan Lowered Into Grave,” *AC*, Apr. 30, 1913, 2.

75 *AC,* Apr. 30, 1913, 1; “Impostors Busy In Sleuth Roles In Phagan Case,” *AC*, May 4, 1913, 1; “Clock ‘Misses’ Add Mystery to Phagan Case,” *AG*, Apr. 30, 1913, 3.

76 *Brief*, 19, 46, 210-11; *AC,* Apr. 30, 1913, 1; “Stains of Blood on Shirt Fresh, Says Dr. Smith,” *AC*, May 8, 1913, 1, 2.

77 Frank admits to changing clothes under oath at the coroner’s inquest, in *AJ*, May 6, 1913, 11. Also, *AG*, July 30, 1913, 2, and *AJ*, Aug. 13, 1913, 5, for reference to Leo Frank’s change of clothes.

78 *Brief*, 245 (unsigned statement made by Frank, in the presence of his attorney Luther Rosser, before Chief of Detectives Lanford, April 28, 1913).

79 “Third Man Brought Into Phagan Mystery By Frank’s Evidence,” *AC*, May 6, 1913. At the trial, factory manager N.V. Darley testified that “Mr. Frank had on a brown suit on Saturday and Monday. On Sunday he had a different suit on.” *Brief*, 32, 35. Also, see Oney, *ATDSR*, 31; *Brief*, 107 (“black suit” on Sunday), 210-11, 298.

80 *AC,* Apr. 30 1913, 1, 2. Lee said that the very shirt he was then wearing in jail was the same one he had on when he found the body early Sunday morning, and he had worn that same shirt every day for a week before, explaining that he changed shirts every Sunday. Also, police could not fathom why Lee would not have burned or otherwise disposed of the shirt—especially if he knew enough to place it at the bottom of the clothes hamper. “‘Looks Like Frank is Trying to Put Crime On Me,’” *AG,* Apr. 30, 1913, afternoon extra ed., 1. Also, “The Case of Mary Phagan,” *AC*, May 4, 1913, B5:

> Why did the detectives wait two days after Newt Lee was arrested before they searched his home for evidence? And who was watching his home in the meantime to see that evidence was not “planted?” Three days after the murder the register of the watchman’s time clock showed three discrepancies of an hour each. Possibly the clock was registered correctly Sunday. Who was watching to see that it

was not changed?

Also, "Impostors Busy in Sleuth Roles in Phagan Case," *AC*, May 4, 1913, 1, 2:

> What interests are promoting the planting of evidence in the Mary Phagan mystery?...A Pinkerton official said…: "I am satisfied that evidence is being planted….The clock record is plainly a 'framed-[u]p' clue. The shirt appears to be, and there are numerous other indications. Also, we are convinced that there are mysterious forces antagonizing our investigation."

81 *AC*, May 8, 1913, 1.

82 "Mary Phagan's Murder Was Work of a Negro Declares Leo M. Frank," *AC,* May 31, 1913.

83 *The People v. Leo Frank Teacher's Guide* (New York: Anti-Defamation League, 2009), 16.

84 "State Faces Big Task in Trial of Frank as Slayer," *AG*, May 27, 1913, 5.

85 Though Jews were not targeted, Greeks were. See "Greeks Make Protest; Object to Flaring Headlines Over Phagan Mystery," *AC*, May 8, 1913, 5, 2, 1: "Detectives announce they are searching for a Greek…" "SEEK MISSING GREEK IN PHAGAN CASE…Detectives Figure Strangling Was a Typical Mediterranean Crime," *AG*, May 7, 1913, night extra ed., 1, 2. And "Atlanta Greeks Protest Against Headline Published In Extra of An Atlanta Afternoon Paper," *AJ*, May 8, 1913, 9; *AC*, May 9, 1913, 2: "The theory that Mary Phagan was slain by a Greek who worked in a nearby café, has been disproven and is abandoned by the detectives."

86 *AG,* May 2, 1913, 1, 2; "Confidence Expressed In Leo M. Frank," *AJ*, May 2, 1913, 5. One example, "Leo Frank's Friends Denounce Detention," *AG*, Apr. 30, 1913, 3: "Mr. Frank is popular in Jewish social circles and an interested worker in several Jewish charitable organizations, being president of the local order B'nai B'rith."

87 "Mayor Confers With Chief; Says Extras Are Misleading," *AC*, Apr. 30, 1913, 3.

88 "Pinkertons Hired To Assist Police Probe the Murder of Mary Phagan," *AC,* Apr. 29, 1913: "It was largely upon Frank's testimony that the search for Gant [sic] continued." *AG*, Apr. 29, 1913, home ed., extra no. 5, 1:

> The police say that Frank is *not under arrest*, that he was put under police guard for his own personal safety, and that there are no charges against him.

> Why, then, did the police act? There must be some reason other than the man's personal safety, under consideration. Frank has not yet figured as of importance in the case.

Later in the article, under the subhead "Frank To Be Kept Under Guard," the newspaper gingerly stated:

> It was learned late this afternoon that Frank will be held on the technical charge of "suspicion." He will not be placed in a cell, but he will be under guard. An extra policeman will be employed to keep watch over the factory superintendent in the police station and Frank will pay for the services of this man.

89 *AC*, Apr. 30, 1913, 1.

90 "L. M. Frank, Factory Superintendent, Detained By Police," *AJ*, Apr. 29, 1913, 1.

91 "Why Was Frank Lynched: Was It Race Hatred, Dirty Politics, Yellow Journalism?" *Forum*, Dec. 1916.

92 Oney, *ATDSR,* 335.

93 *AJ*, May 19, 1913, 1. A headline and story (*AJ*, July 18, 1913, 1) claiming that the Pinkertons had changed their view of Frank's guilt were mistaken.

94 *Argument of Hugh Dorsey*, 71. Also, "Evidence Against Frank Conclusive, Say Police," *AG,* May 26, 1913, home ed., 1.

95 *Brief*, 10, 33. Officer J. N. Starnes testified the spots were indeed blood. See also *AJ*, Apr. 28, 1913, last ed., 3.

96 Frank quoted in *Brief*, 212-13. Oney, *ATDSR*, 10: Frank's father-in-law, Emil Selig, had a thriving family business—West Disinfecting, the "Largest Manufacturer of Disinfectant in the World." Also, *AJ*, Aug. 15, 1913, 4.

97 *Brief*, 26-29. *Brief*, 10: Officer Starnes: "I found a nail fifty feet this side of the metal room toward the elevator on the second floor that looked like it had blood on the top of it. It was between the office and the double doors. I chipped two places off on the back door which looked like they had bloody finger prints." *Brief*, 27-28, 76, 97-98, 107, 196.

98 *Brief*, 26-27.

99 *Brief*, 47.

100 *Brief*, 48-49; *AG*, Aug. 21, 1913, afternoon ed., 2; *AC*, Aug. 21, 1913, 2. Dr. J.W. Hurt affirmed that "It is my opinion that this enlargement of the vagina could have been produced by penetration immediately preceding death." *Brief*, 46. Dr. Harris altered his testimony about Mary Phagan's hair months later during the appeals process. See *AJ,* Feb. 22, 1914; *AC*, Feb. 21, 1914, 1.

101 *Brief*, 47-48; *AC,* Aug. 2, 1913, 3; "Mary Phagan

Murdered Within Hour After Dinner," *AC,* Aug. 2, 1913, 1; "Testimony of Dr. Harris Upheld by Noted Stomach Specialists," *AC*, Aug. 21, 1913, 2. And, as reported in *AG*, Aug. 20, 1913, 2, three experts upheld Dr. Harris's testimony.

102 *AG,* May 4, 1913, 2A; *AG,* May 9, 1913, 2; *AJ*, May 9, 1913, 1, 20; *AC*, May 9, 1913, 10; *AC*, May 10, 1913, 2: The grand jury is "composed of many prominent and influential residents and businessmen. It is as follows: L. H. Beck, foreman; F. P. H. Akers, R. R. Nash, Charles Heinz, H. G. Hubbard, John D. Wing, R.A. Redding, V. H. Kriegshaber, R. F. Sams, A. D. Adair, S. C. Glass, J. G. Bell, Cephas M. Brown, George A. Gershon, A. L. Guthman, Walker Dunson, W. L. Percy, C. A. Cowles, Sol Benjamin, [B. F.] Bell, H. M. Beutell, W. [E.] Besser and Albert [B]oylston." *AC,* July 27, 1913, B3; *AC,* July 29, 1913, 14; *AC,* May 9, 1913, 1; *AC,* May 24, 1913, 10; *AG,* May 24, 1913, 2. *AC*, July 29, 1913: Sol Benjamin: "I did not vote on the matter…"

103 DeWitt H. Roberts, "Anti-Semitism and the Leo M. Frank Case" (unpublished essay of the Anti-Defamation League, n.d., ca. 1953, SC-3576, American Jewish Archives, Cincinnati, OH), 5; *The People v. Leo Frank Teacher's Guide* (New York: Anti-Defamation League, 2009), 16.

104 Oney, *ATDSR,* 116, 185-87, 394: A different grand jury that also "contained several Jews," considered the indictment of another Black factory employee named James Conley. Among them was the city's largest employer, Oscar Elsas, who was known to nurse a paranoid fixation with "anti-Semitism," and who not only knew Frank but was a client of Frank's attorney Luther Rosser. See Clifford M. Kuhn, *Contesting the New South Order: The 1914-1915 Strike at Atlanta's Fulton Mills* (Chapel Hill: Univ. of North Carolina Press, 2001), 54-55.

105 *Directory of National Organizations*, pp. 98, 115, American Jewish Committee Archives, http://www.ajcarchive.org/AJC_DATA/Files/1907_1908_3_Directories.pdf.

106 Bill of Indictment, No. 9410, Fulton Superior Court, May (24th) Term 1913.

107 *Brief*, 58, 59; *AC*, Aug. 5, 1913, 2.

108 "New Arrest Made in Phagan Case," *AG*, May 1, 1913, home ed., 1.

109 "Mary Phagan's Murder Was Work of a Negro Declares Leo M. Frank," *AC,* May 31, 1913.

110 It is curious that E.F. Holloway had provided investigators a couple of damning leads about two separate suspects, both of which benefitted his employer, Leo Frank,

and both of which turned out to be false. In addition to information about Conley, Holloway provided "direct knowledge" that James Gantt, the former employee who returned to the pencil factory for his shoes, was "infatuated" with Phagan and thus probably the murderer. See "Charge Is Basest of Lies Declares Gantt, Accused," *AG*, Apr. 30, 1913, 3; "Slain Girl Modest And Quiet," *AG*, Apr. 28, 1913, home ed., 1; "Gant[t] Was Infatuated With Girl; at Factory Saturday," *AG*, Apr. 28, 1913, 1, 2. Also, "Suspicion Turned To Conley; Accused By Factory Foreman," *AG*, May 27, 1913, 1.

111 "Dorsey Goes After Holloway; Called to Stand for Frank," *AG*, Aug. 9, 1913, Florida extra ed., 1. It also raises the question of how Holloway's "surveillance" could have missed the "blood" on Conley's shirt prior to his washing it. See "N.V. Darley Denies Testimony Given by Conley and Dalton," *AC*, Aug. 9, 1913, 2. Holloway confessed at trial that he had told detectives that "if [Conley is] arrested, remember he's my nigger," when angling for the offered cash reward. *AC*, Aug. 9, 1913, 2.

112 *Brief*, 289; "Detective Harry Scott's Hunch," *AC,* July 13, 1913, B7.

113 Conley "swore" out four affidavits dated May 18, 24, 28, 29, 1913. See *Brief*, 281-91; also Conley's statement in "Others Will Be Involved," *AC,* May 25, 1913, 2; "Mary Phagan's Murder Was Work of a Negro Declares Leo M. Frank," *AC,* May 31, 1913; "Conley Reported to Admit Writing Notes Saturday," *AC,* May 28, 1913; "Startling Testimony of Conley," *AC,* Aug. 10, 1913, 3; "Conley Says He Helped Frank Carry Body of Mary Phagan to Pencil Factory Cellar," *AC,* May 30, 1913; "Negro Sweeper Tells the Story of Murder Notes," *AC,* May 29, 1913, 1, 2.

114 It must be understood that at no point during the "swearing" of these affidavits did Conley have an attorney representing his interests. Today that fact alone would disqualify those statements as evidence. Indeed, one of the "affidavits" was unsigned. Later, in court, an attorney appeared on his behalf, but, as will be discussed later, William Smith would be found to have serious conflicts of interest.

115 *Brief*, 56-57.

116 *Brief*, between pages 252 and 253: State's Exhibits Y & Z.

117 *Brief*, 80-81.

118 Conley testified that Frank had given him a wad of bills that Frank told him was $200, but then Frank rethought the payment and took the money back, instead giving him $2.50—a nearly 100% pay cut. See *Brief*, 57-58.

119 *Brief*, 57. It was denied by some that Frank's relatives

were rich at all. Frank's attorney Reuben Arnold stated in court that "we overwhelmingly showed he did not have wealthy relatives there. His people are of very limited means. His father was a traveling salesman with an income of $1,200 a year. He is old and crippled now and trouble is his portion." *The Trial of Leo Frank: Reuben R. Arnold's Address to the Court in His Behalf* (Baxley, GA: Classic, 1915), 59. But Frank's own appeals attorney, Louis Marshall, said in a private letter, "Frank's uncle is a man of means [and] has been very generous in meeting the necessary expenses." Charles Reznikoff, ed., *Louis Marshall, Champion of Liberty: Selected Papers and Addresses,* vol. 1 (Philadelphia: Jewish Publication Society of America, 1957), 298. Years later, Marshall seemed to deny his first statement when he wrote: "even the ordinary expenses… were paid for out of my own pocket…" Ibid., 320. Also, the *Atlanta Georgian* of May 2, 1913, 1, reports that Frank's uncle "is very wealthy." In fact, Moses Frank was a major operator in the international cottonseed oil business, one of many, many Jewish businessmen profiting from African slave labor. See Lynette Boney Wrenn, *Cinderella of the New South: A History of the Cottonseed Industry, 1855-1955* (Knoxville: Univ. of Tennessee Press, 1995), 89; *The Secret Relationship,* vol. 2*,* particularly chaps. 3, 4, and 5. Also, *AJ,* May 1, 1913, last ed., 1: "It was learned Thursday that Moses Frank, one of the city's most substantial citizens, is returning to Atlanta today to assist his nephew….L. M. Frank is said to be a favorite nephew, and the probable heir to his fortune."

120 *Brief*, 290, 55, 57, 82; *AC*, Aug. 5, 1913: "…Frank had intended to burn the girl's body…," according to James Conley's trial testimony. Also reported in *AC*, Aug. 6, 1913, 2.

121 *Brief*, 67.

122 "Mary Phagan's Murder Was Work of a Negro Declares Leo M. Frank," *AC*, May 31, 1913, 1-2.

123 Emphasis ours. "Negro Sweeper Owns Writing Notes Found By Dead Girl's Body," *AG,* May 24, 1913, 2.

124 Blacks and Jews had had, of course, many confrontations in other arenas throughout the slavery and Jim Crow eras. See *The Secret Relationship Between Blacks and Jews*, vols. 1 and 2; *Jews Selling Blacks: Slave Sale Advertising by American Jews* (Chicago: Nation of Islam, 2010).

125 *The Secret Relationship*, 2:36-40, 61-62, 111, 127-28, 134, 395-99, 400, 405, 422.

126 W. Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930* (Urbana: Univ. of Illinois Press,

1993), 42; David Garland, "Penal Excess and Surplus Meaning: Public Torture Lynchings in Twentieth-Century America," *Law & Society Review* 39, no. 4 (Dec. 2005): 793-833.

127 Frederick Law Olmsted, *The Cotton Kingdom* (1861), 571-72. See also James Lane Allen, "Mrs. Stowe's 'Uncle Tom' at Home in Kentucky," *Century* 34, no. 6 (Oct. 1887): 860, in which the author considered the options a slave master had when "he finds a bad one." Also *The Secret Relationship*, 2:449-50 and 450 n. 239.

128 MANGUM, 165-67; *AG,* June 12, 1913; Oney, *ATDSR*, 290-91; "Milton Klein, Visitor of Frank is Grilled by Solicitor Dorsey," *AC,* Aug. 15, 1913, 4.

129 See also "Conley Insists on Facing Frank: Conley Begs Chief to Let Him Repeat Story Before Frank," *AG*, June 2, 1913, afternoon ed., 1; "Frank Asked Room To Conceal Body Believes Lanford," *AC,* June 2, 1913, 2. The *Washington Post,* June 2, 1913, 1:

> Chief Langford [sic] also charged today that Sheriff [C. Wheeler] Mangum allows friends of Frank to visit him, but flatly refuses to allow men working on the case to see him or talk with him. The city detective department is anxious to confront Frank with Conley, but Sheriff Mangum has refused to admit these detectives and the negro to Frank's cell. Chief Langford [sic] stated today that "contrary to assisting us in this case…it appears to me that Sheriff Mangum has placed obstacles in our way."

See *Brief,* 74, for Mangum testimony. Also *AJ,* Aug. 15, 1913, 6; *AC,* Aug. 15, 1913, 4.

130 *AC,* May 28, 1913, 1.

131 This was a cultural holdover from the slavery era when the "master" of every Black slave acted as his guardian in any conflict or interaction with other whites or with the human property of other whites. After slavery this role fell to the employer, who was expected to help authorities maintain white supremacy in all affairs concerning his "negro property." Newt Lee's previous employer, T.Y. Brent, took part in the police "interrogation" of Lee, as did the Frank-fired factory employee and then-suspect James Gantt. See *AC*, Apr. 29, 1913, 2; *AG*, July 23, 1913, final ed., 1. Brent would later join the Frank defense team and play an important role in the trial. See section herein titled "Injecting Anti-Semitism into the Trial: The Brent–Kendley Affair."

132 *AG,* June 22, 1913, 4A. "Try to Corroborate Story Told By

Conley," *AC*, July 25, 1913, 12: "Conley, of late, has insisted upon facing Frank, declaring that if he can confront the white man with his story, he will obtain admission." Chief of Detectives N. A. Lanford seemed powerless to make it happen: "We can't get to see Frank ourselves. None of our men can see him. It seems impossible to have Conley get to him."

133 *Argument of Hugh Dorsey*, 99–100. Sheriff C. Wheeler Mangum testified that Frank refused to see Conley when he was brought to Frank's jail cell. Frank's lawyer objected to the incident being brought out at trial and Dorsey explained to the court, "I want to show that for the first time in the history of the white race a white man, claiming innocence, refused to confront his accuser, and particularly that this accuser was only an ignorant negro." The paper then reported that "Judge Roan sustained the state." See "Applause Sweeps Courtroom…" *AC*, Aug. 7, 1913, 3. See the *Journal* version, "Lawyers Clash in Big Battle Over Testimony of Jim Conley," *AJ*, Aug. 6, 1913, 6.

See MANGUM, 165-67; *AC,* May 25, 1913, 2; May 28, 1913, 1; June 2, 1913, 1, 2; June 13, 1913, 5; July 8, 1913, 1; July 24, 1913, 1; July 25, 1913, 12. Also, *AJ,* May 31, 1913, 1: "Harry Scott, the Pinkerton detective who is working on the Phagan murder case, stated Saturday that it is too late now to arrange a meeting between Frank and the negro. 'I do not think it would be advisable now,' he said. 'Mr. Frank's attorneys have had time to coach him as to what to say and how to act if he is confronted with Conley.'"

Other behavior that today may seem bizarre were the actions of the wealthy white woman from Michigan who insisted that she be allowed to question Conley—*which she was allowed to do!* According to witnesses at the session, "the negro was not disturbed: he was rather truculent in his manner and accused Mrs. [Lillian] Schubel of being in a conspiracy to 'frame' him….The negro showed great skill in fencing with [her]…Conley is nobody's fool." The woman "was plainly disappointed" and complained that "she was unable to take him by surprise." She made no demand to question Frank. See "Woman Questions Conley," *NYT,* Jan. 20, 1915, 11.

134 *Brief*, 24.

135 MANGUM, 165. The terms "filthy" and "dirty" were used by Frank and his legal team to describe all Blacks.

136 "Dramatic Scene at Factory As Conley Re-Enacts Crime," *AG*, May 29, 1913, night extra ed., 2. Later another *Georgian* reporter affirmed that account (*AG*, May 31, 1913, 2):

> The negro proved himself either a most consummate actor or a man who finally was telling the truth. He was letter perfect, so far as a person could be in a tragedy of the sort. He never faltered nor hesitated. Yet he reproduced in startling detail every movement and every conversation of importance which he said took place….If he was lying, it was a most amazing fabrication he built up. He told more than enough to demonstrate conclusively that he knew all about the disposal of the body…the detectives were forced to feel that they were witnessing an almost exact reproduction of what took place after Mary Phagan was killed the afternoon of April 26.

Also, *Brief*, 139-40.

137 *AG*, Aug. 4, 1913, final extra ed., 8.

138 "Conley Re-Enacts in Plant Part He Says He Took in Slaying," *AG,* May 29, 1913, night extra ed., 2, col. 8; "Negro's Part in Factory Crime Re-enacted," *AG,* May 30, 1913, home extra ed., 2; *AG,* Aug. 4, 1913. "Frank Asked Room To Conceal Body Believes Lanford," *AC*, June 2, 1913, 2: "That the sweeper is telling the unadulterated truth is the opinion of headquarters detectives and Superintendent Harry Scott, of the Pinkertons."

139 Jeffrey Melnick (at 73 min., 30 sec.), "The Complicated Story of Leo Frank's Trial & Lynching: Black–Jewish Relations on Trial," lecture, Jacob Rader Marcus Center of the American Jewish Archives, Cincinnati, OH, May 4, 2010, http://americanjewisharchives.org/education/videos.php.

140 Steve Oney, "100 Years After: Leo Frank Case Still Raises Questions," interview by Steve Goss, "One On One" With Steve Goss, Sept. 30, 2013, http://wabe.org/post/100-years-after-leo-frank-case-still-raises-questions (at 3 min:48 sec).

141 *Brief*, 282, 283.

142 This theory first appeared in E.F. Holloway's statement, in "Conley Was in Factory on Day of Slaying," *AG*, May 29, 1913, extra ed., 2.

143 *AJ,* May 29, 1913, last ed., 24.

144 Leo M. Frank, "Leaflet No. 1," May 22, 1914, Harry Golden Papers, Charlotte-McKlenburg Library, Charlotte, NC.

145 *AG,* Aug. 21, 1913, 5; *AG*, Aug. 17, 1913, extra ed., 2D.

146 Conley was not the only one. On the day of the murder Frank advanced money ($2.00) to Arthur White upon his request. For loan activity at the factory see *Brief*, 188, 57,

77, 86, 97, 106, 109, 171.

147 Harry Simonhoff, "Leo M. Frank, Martyr" in *Saga of American Jewry, 1865-1914* (New York: Arco, 1959), 367; Golden, *A Little Girl Is Dead,* 39: Golden says the week Frank was arrested three Blacks were lynched in Georgia.

148 For example, Deborah Gray White, *Ar'nt I a Woman?: Female Slaves in the Plantation South* (New York: W.W. Norton, 1985).

149 *The People v. Leo Frank*, directed by Ben Loeterman (Boston: Ben Loeterman Productions, Inc., 2009).

150 Apr. 28, 1913, afternoon extra ed., 3; Apr. 28, 1913, home ed., 4.

151 *Brief*, 186.

152 *Brief*, 21-22, 74, 83, 105-6. See also Mrs. White's courtroom testimony in "Negro Lurking in Factory Seen by Wife of Employee," *AC*, Aug. 2, 1913, 3; *AG*, Aug. 6, 1913, extra ed., 2, 4; *AJ,* Aug. 6, 1913, last ed., 6. "Frank Will Take Stand At Inquest; Mrs. Mattie White Tells Detectives That on Afternoon of Killing She Saw Negro in Factory," *AC*, May 8, 1913, 2; "Suspicion Turned To Conley…" *AG*, May 27, 1913, 5: "[S]he saw a negro loitering around the factory at 1 o'clock, which, it is thought, he would have been very unlikely to do had he had anything to do with the disappearance of Mary Phagan, who was in the factory a few minutes after 12 o'clock." Frank's own unsworn courtroom explanation is in *Brief*, 213-14. Oddly, the *Atlanta Journal* records Frank as having been told that Mrs. White saw "some negroes," which may have been Frank trying to diminish the importance of the sighting. See *AJ*, Aug. 19, 1913.

153 Pinkerton detective Harry Scott, in his sworn testimony, says Frank himself told him of Mrs. White's "negro" during their first meeting on April 28th, and does not mention any "messenger." *Brief*, 22. The Pinkerton detectives report their interview with Mrs. White on May 9, 1913. *Pinkerton*, 17; Oney, *ATDSR*, 128; *Brief*, 52, 74, 81, 83, 93; *AC*, Aug. 8, 1913, 3.

154 *AC*, Aug. 7, 1913, 2. City policeman S.L. "Bass" Rosser testified, "On May 6th or 7th was the first time I knew Mrs. White claimed to have seen a negro at the factory on April 26th." *AC*, Aug. 8, 1913, 2, article reported on the cross-examination of Pinkerton detective Harry Scott by Prosecutor Hugh Dorsey: "My impression is that I told [Officer] Black, [Chief] Lanford and Bass Rosser." "Wasn't it May 7 before you told Rosser?" "It was a short time after April 28, I remember."

155 "Applause Sweeps Courtroom When Dorsey Scores a Point," *AC*, Aug. 7, 1913.

156 Mrs. White picked Conley out of a line-up of "a dozen other negroes[, a]nd declared she believes him to be the negro she saw near the elevator." *AJ*, May 27, 1913, 1. Conley's lengthy testimony detailing his "look out" experiences is in MANGUM, 50-98.

157 For examples of how the issue of Mrs. White has been discussed, see Frank's own testimony, *Brief,* 243-45; Thomas E. Watson, "The Celebrated Case of the State of Georgia vs. Leo Frank," *WM*, August 1915, 186.

158 "Detective Harry Scott's Hunch: Thrilling Story of How It Secured James Conley's Confession," *AC,* July 13, 1913, B7; *WP*, June 2,1913, 1, 3; *AC*, Aug. 5, 1913, 2; *AJ,* Aug. 4, 1913, last ed., 4. This, according to Oney, "suggested a previously unknown intimacy between boss and employee." Oney, *ATDSR*, 128.

159 "Frank Answers Questions," *AJ,* Mar. 15, 1914, 6.

160 *Pinkerton*, filed by W. D. MacWorth, May 16, 1913, 29-30; *Brief*, 234; Oney, *ATDSR,* 128.

161 Phagan Kean, *The Murder*, 63: "Additional information which seemed to point to Leo Frank's guilt was his failure to throw suspicion on Conley who testified that he helped Frank dispose of the body..." *Brief,* 21, 74.

162 *The Jew Accused,* 256 (italics ours).

163 "Lee's Guilt Proved," *AG*, Apr. 30, 1913, final ed., extra no. 8; *AC,* Apr. 30, 1913, 3: "…Additional clews *furnished by the head of the pencil factory* were responsible for the closing net around the negro watchman." Emphasis ours.

164 MANGUM, 103, 109, 111; *AC*, Feb. 25, 1914, 2.

165 "Applause Sweeps Courtroom…" *AC,* Aug. 7, 1913, 3.

166 *Brief*, 93.

167 *Brief*, 118. Mrs. Carson's daughter Rebecca Carson would surface (*Brief*, 223) in the case as the woman seen going into the fourth-floor women's dressing room with Leo M. Frank. She would later provide key but questionable eyewitness testimony about Frank's whereabouts on the afternoon of the murder.

168 *Brief*, 118-19. Another sleight-of-hand nuance here becomes apparent. Mrs. White clearly and emphatically says twice that she saw "a negro" as she was going *downstairs* (at 12:50 p.m.), but Frank's lawyers and witnesses and Frank himself continued to deliberately misstate when Mrs. White saw "the negro," claiming, falsely, that she saw him on her way *upstairs* (12:30 p.m.). They were trying, by this maneuver, to place Conley at the scene closer to Mary Phagan's moment of death. See *Brief*, 105-6, 109, 214. See also *Brief*, 21, 74.

169 *Brief,* 218.

170 *AG*, Apr. 28, 1913, 2; Apr. 30, 1913, 2; Apr. 29, 1913, extra no. 5, home ed., 4.

171 E.F. Holloway, N. V. Darley, Herbert G. Schiff, Wade Campbell and others had also seen James Conley's writing (*Brief*, 97, 106). Holloway testified that on the day before the murder, "There were 7 or 8 negroes about the building, elevator boys and sweepers." *Brief*, 31.

172 *Brief*, 97.

173 Samuels, *Night Fell*, 64. It is interesting that Oney presents this information as evidence of Conley's guilt (*ATDSR,* 288). Leonard Dinnerstein and Jeffrey Melnick don't even mention Mrs. White in their books. See also *Pinkerton*, filed by L.P. Whitfield, May 16, 1913.

174 Melnick, *Black–Jewish Relations,* 39; Oney, *ATDSR,* 532; Jaher, "Leo Frank," 36: "Frank flourished in an atmosphere of culture and wealth." Oney, *ATDSR,* 10-11: "[Frank] was ascending to the top of Atlanta's German-Jewish aristocracy. Since arriving in Georgia…Frank had enjoyed a propitious rise.…Frank's world was one of culture and privilege."

175 The transcript was lost, or stolen, from the public record sometime in the 1960s. "Frank's Trial Lasted 29 Days; Many Court Records Broken," *AC,* Aug. 26, 1913, 7; Phagan Kean, *The Murder*, 149. This passage, in "State Wins Victory When Roan Retains Damaging Evidence," *AG*, Aug. 6, 1913, extra ed., 2, suggests who ultimately might have gotten possession of the transcript: "The odd situation of the attorneys for the defense being in possession of the official court records was relieved when Mr. [Reuben] Arnold consented to them being read."

176 "Phagan Mystery Club Examined by Experts," *AC*, July 24, 1913, 7: "The report of a bloody glove, apparently having been worn by a young girl, having been found in the pencil factory, was also in circulation Wednesday." "Conley and Lee Put on Grill By Dorsey," *AG*, July 23, 1913, final ed., 1: "Bloodstained glove of Mary Phagan is said to have been found on the first floor near the place the discovery of her pay envelope was made."

177 Oney, *ATDSR,* passim; Dinnerstein, *Leo Frank Case*, 9.

178 Oney, *ATDSR,* 190; Melanie Jane Wright, *Moses in America: The Cultural Uses of Biblical Narrative* (New York: Oxford Univ. Press, 2003), 45.

179 DeWitt H. Roberts, "Anti-Semitism and the Leo M. Frank Case" (unpublished essay of the Anti-Defamation League, n.d., ca. 1953, SC-3576, American Jewish Archives, Cincinnati, OH), 17; "Atlanta, Georgia," *Encyclopedia of Southern Jewish Communities*, Goldring-Woldenberg Institute of Southern Jewish Life, History Dept., 2006,

http://www.isjl.org/history/archive/ga/atlanta.html; *AC,* May 12, 1913, 1; *AG*, June 22, 1913, Rome ed., 1A, 4A; *AJ*, June 22, 1913, 1; *AC,* June 22, 1913, 1; *AG*, July 28, 1913, afternoon ed., 2; Dinnerstein, *Leo Frank Case*, 37, 76, 107-9*;* Steve Oney, "The Lynching of Leo Frank," *Esquire*, Sept. 1985, 96; Oney, *ATDSR,* 15, 49, 176-77; Mark K. Bauman, "Factionalism and Ethnic Politics in Atlanta: German Jews from the Civil War through the Progressive Era," in *Politics and Religion in the White South*, ed. Glenn Feldman (Lexington, KY: Univ. Press of Kentucky, 2005), 39, 52 note 22; "The Fighting Idealist: A Portrait of Herbert Joseph Haas," *Southern Israelite*, December 31, 1935.

180 "Trial Interest Sets Record for County," *AG*, July 29, 1913, 4.

181 *Columbus Daily Enquirer*, June 25, 1913, 1; Oney, *ATDSR,* 15, 172, 405. According to Phagan Kean, *The Murder*, 149, Judge Roan was Rosser's senior law partner from 1883 to 1886. It is noteworthy that the firm of Rosser, Brandon, Slaton and Phillips also represented Jewish businessman Oscar Elsas, who sat on the grand jury in the Frank case. See Clifford M. Kuhn, in *Contesting the New South Order,* 54-55; Oney, *ATDSR*, 187.

182 Description of jurors, in *AC,* July 29, 1913. In the South jury duty was determined by voting lists. Much of the recorded racial terrorism that occurred against Blacks in the South focused on keeping Blacks from the polls. So whereas a substantial number of Blacks were registered to vote, few actually did. In the Frank case four or five of those called to duty were Black. Of the jury of twelve of Frank's white male peers, all but one was married and five were fathers. Their employment ranged from a bank teller, a bookkeeper, a real estate agent, a manufacturer, and a contractor to an optician, a claim agent, a mailing clerk, two salesmen, and two machinists. *AJ*, July 28, 1913.

183 *WP,* Mar. 9, 1914, 5; *AG*, Aug. 22, 1913, 3.

184 *AC,* Aug. 23, 1913, 2; *AJ*, July 28, 1913, 5; *AG*, July 28, 1913, 1.

185 Even the official brief of evidence of the case demonstrates bias against James Conley and favors Frank. The table of contents directs the reader with these entries: "Witnesses attacking Frank's character"; "Frank's character good"; "Character of Leo M. Frank good"; "Conley, Jim Character for veracity bad"; "Conley, Jim Character of, for veracity, bad"; "Conley's character bad."

186 *AC,* July 29, 1913, 1; *AC*, July 30, 1913, 1. Still and all, the *Atlanta Constitution*—with its Jewish editor—presented Lee's exactitude and precision in the most racist possible

way: "…the negro made corrections of which only the childish mind of an African would have thought….In brief, the story which the darkey told, and hung on to like a loan shark to his victim…" Also, "Lee, Dull and Ignorant, Calm Under Gruelling Cross Fire," *AC,* July 30, 1913, 2.

187 See "Felder Charges Police Plot to Shield Slayer," *AG*, May 24, 1913, extra ed., 1: "'Every move made by the police in the Phagan case has been for the protection of the real criminal,' said Colonel [Thomas B.] Felder," the noted Georgia lawyer. *AG*, May 27, 1913, extra ed., 1, reported that Felder "believed in the guilt of Frank" and therefore "can not appear as an attorney for Frank…"

188 "Evidence Against Frank Conclusive, Say Police," *AG*, May 26, 1913, home ed., 1; *AG*, May 27, 1913, extra ed., 1.

189 "Newt Lee May Get His Freedom Today," *AC,* July 30, 1913. The racism of the *Atlanta Constitution—not "anti-Semitism"*—was irrepressible and typical media fare:

> What will become of Lee is not known. If the darkey had his choice he would probably be set down in a watermelon patch, where the melons grow eternal and where the little curlicues on the ends of the luscious fruit sprouted forth ample quids of "bacca." It was for a melon that Newt pined while in jail, and it was for a chaw of "bacca" that he pleaded when Attorney Luther Rosser finished his gruelling cross-examination Tuesday.

Similarly vicious was "All Newt Wants Now Is Freedom and a Hat," *AJ*, July 30, 1913, last ed.,1; and *AJ*, Aug. 2, 1913: "The darky…lifted up his voice and prayed for 'dat juicy watermillion.'…Now ef I only had'r hat…Dis nigger 'ud be happy."

190 *AG*, Aug. 4, 1913, final extra ed., 2.

191 "Amazing Testimony of Conley," *AC,* Aug. 5, 1913, 2, 3. See "Evidence Ended; Argument Will Open Today," *AC,* Aug. 21, 1913; "Frank Case May Go To Jury Late This Afternoon," *AC*, Aug. 22, 1913, 5.

192 *Brief*, 52-53.

193 *AJ*, May 31, 1913, 7.

194 *Decision by Georgia Governor John M. Slaton to Grant Executive Clemency to Leo Frank,* p. 10. Also *WM*, Sept. 1915, 274, 288. Mrs. Waites, at the time of the trial, recognized Frank as the white man and Conley as "the negro." See *WM*, Oct. 1915, 316-17.

195 *Brief*, 52-53.

196 *Brief*, 53-54.

197 Conley is here misstating Mary Phagan's name, confusing it with that of a factory forelady, Mary Pirk.
198 *Brief*, 54-55.
199 *Brief*, 55-56.
200 *Brief*, 56-57, 101-4. Emma Clarke testifies that she and Hall arrived in Frank's office at 11:35 a.m. and departed ten minutes later. Phagan arrived at about 12:03 p.m.
201 *Brief*, 285-86.
202 *AJ*, July 30, 1913, 4; *AG*, July 30, 1913, 2.
203 *Brief*, 21.
204 *Brief*, 186.
205 Conley's testimony suggests there was time for Frank to have locked the front door before the wardrobe incident. *Brief*, 55, 73.
206 In his affidavit of May 29, 1913, Conley claimed that when he emerged from the cabinet he said, "Goodness alive, you kept me in there a mighty long time," to which Frank replied, "Yes, I see I did. You are sweated." See *AJ*, May 30, 1913, 1.
207 *AC*, May 31, 1913, 2.
208 *Brief*, 57-58.
209 *Brief*, 57-58.
210 Ibid., 58.
211 *AJ,* Dec.16, 1913.
212 *AG*, Aug. 4, 1913, final extra ed., 4.
213 "Amazing Testimony of Conley Marks Crucial Point of Trial," *AC,* Aug. 5, 1913, 3.
214 "Conley Grilled Five Hours By Luther Rosser," and "Amazing Testimony of Conley Marks Crucial Point of Trial," *AC*, Aug. 5, 1913; MANGUM, 50-98. Covering for himself, Rosser said that "Frank's character was driven into this case," because without such action "Frank had about as much chance as crippled grasshoppers in a pen of doves." *AJ,* Dec.16, 1913, last ed., 1.
215 "Amazing Testimony of Conley…" *AC,* Aug. 5, 1913, 3. Leonard Dinnerstein's analysis: "Yet the defense attorneys, in their attempt to confuse Conley and catch him in a major misstatement, *forced him* to talk of the other times that he had 'watched for' Frank and the witness vividly described other women who had come to 'chat' with the superintendent while he had guarded the front door." Emphasis ours. Dinnerstein, *Leo Frank Case*, 45.
216 *AC*, Aug. 5, 1913, 1, 2.
217 *Brief*, 55 (parentheses are in the original).
218 "Original Motion for New Trial," *Leo Frank v. State of Georgia* (1913), 44.
219 "Amazing Testimony of Conley," *AC,* Aug. 5, 1913, 3;

Brief, 60.

220 The newspapers handled the issue thus: Newt Lee: "I never knew nuh saw this Jim Conley before last week, in jail." "Lee, Dull and Ignorant, Calm Under Gruelling Cross Fire," *AC*, July 30, 1913, 2. In "Amazing Testimony of Conley," *AC,* Aug. 5, 1913, 3, Rosser asks Conley: "Did you know old man Newt Lee?" Conley answers, "No sir."

221 "State is Hard Hit by Judge's Ruling Barring Evidence Attacking Frank," *AC*, Aug. 20, 1913, 1. DeWitt H. Roberts, "Anti-Semitism and the Leo M. Frank Case" (unpublished essay of the Anti-Defamation League, n.d., ca. 1953, SC-3576, American Jewish Archives, Cincinnati, OH), 19: "In general, the rulings of the trial Judge had been favorable to the defense."

222 As early as the inquest white employees of the National Pencil Company were testifying to the sexual peccadillos of Leo M. Frank. *AC,* May 1, 1913, 1; "Nude Dancers' Pictures Upon Factory Walls," *AG,* Apr. 29, 1913, home extra no. 5 ed., 4; *AG*, Apr. 30, 1913, 4. See trial testimonies, in *Brief*, 28, 50-51, 55-62, 80, 120-21, 165 172, 173, 216, 219, 222-24. See also *Pinkerton*, filed by L.P. Whitfield (re profanity by a white factory foreman and "negroes"), May 2, 1913, 2; *Pinkerton*, filed by L.P. Whitfield (re "crookedness going on in the Pencil Factory" and "men and women go in to the Pencil Factory after dark"—all witnessed by an employee of a company directly fronting pencil factory), May 3, 1913, 5; *Pinkerton*, filed by L.P. Whitfield (re "men and women come in and go out of the Pencil Factory after working hours"—witnessed by the owner of another company two doors from the pencil factory), May 5, 1913, 8; *Pinkerton*, filed by L.P. Whitfield (re: 2 men, Ely Burdett and James Gresham—and other current employees of the pencil factory—being afraid to testify against Frank about his having "been familiar with several of the girl employees"), May 5, 1913, 8-9; *Pinkerton*, filed by L.P. Whitfield (re: Helen Ferguson's report that the pencil factory is "an undesirable place for young girls to work," that "[factory foreman Lemmie] Quinn was intimate with the forewoman Gracie Hicks," and that "Quinn…bought beer" during work hours), May 6, 1913; "Statement of L.A. Quinn," *Pinkerton*, May 5, 1913, 13; *Pinkerton*, filed by Harry Scott, May 8, 1913, 16. Sources referencing Frank's or factory's "immorality" are *AJ*, May 1, 1913, 1, 7; *AG,* Apr. 28, 1913; *AG,* Apr. 29, 1913; *AG,* May 9, 1913, 2; *AG,* Aug. 20, 1913, extra ed., 1, 2, 3; *AG,* Aug. 20, 1913, home ed., 1, 2, 3; *AG,* Aug. 20, 1913, evening ed., 1-2, 4-5; *AC,* May 1, 1913; *AC,* May 9, 1913; *AC,* May 11, 1913; *AC,* May 23, 1913; "Hearing

before Gov. John M. Slaton re Commutation of the Death Sentence of Leo Frank," pp. 146, 148, 187-91, Atlanta, Ga., June 12-16, 1915, Special Collections, Robert W. Woodruff Library, Emory Univ., Atlanta, Ga. (hereafter cited as "Commutation Hearing Before Gov. John M. Slaton"); Dinnerstein, *Leo Frank Case,* 10; MacLean, "The Leo Frank Case Reconsidered," 931-33. An Anti-Defamation League report stated that Frank's spying on female employees "is consistent with the savage employer mores of 1913, and may have been completely true." DeWitt H. Roberts, "Anti-Semitism and the Leo M. Frank Case" (unpublished essay, Anti-Defamation League, n.d., ca. 1953, SC-3576, American Jewish Archives, Cincinnati, OH), 16. "Judge Reverses His Ruling; Now Admits Evidence; Conley's Story of Frank's Immorality Goes to Jury," *Macon Weekly Telegraph*, Aug. 7, 1913, 1; *AC,* Aug. 13, 1913, 3. It was suggested that Frank had formed a "delicate relationship with an office boy," possibly 13-year-old office boy Alonzo Mann or 15-year-old Philip Chambers. See "Testimony of Office Boy Causes Warm Clash Between Lawyers," *AC,* Aug.13, 3; *AJ*, Aug. 13, 1913. See MANGUM, 113-14, for the testimony of Chambers (who worked as office boy at the pencil factory from December 12, 1912, until March 29, 1913). Frank's main financial supporter, Albert Lasker, said of Frank after their very first meeting, "*he [Frank] impressed us as a sexual pervert.* Now, he may not have been —or rather a homeosexual [sic] or something like that" (Emphasis ours). See Lasker, interview, 3.

223 "Bound Over For Phagan Murder," *AC,* May 9, 1913, 1, 2; "Girls Tell Jury Frank's Character is Bad," *AC*, Aug. 21, 1913, 1, 2; *AJ,* May 1, 1914; *AJ*, Aug. 20, 1913, 5; *AG*, Aug. 20, 1913, 2; *Brief*, 222-23; MANGUM, 157.

224 *Brief*, 223 (Hewell testimony). Watson describes Dewey Hewell in *WM,* Aug. 1915, 200: "In a Good Shepherd house, in Cincinnati, there is a poor girl who worked for Frank, and he ruined her. In a Florence Crittenden Home, in Georgia, are two poor girls who worked for Frank, and he ruined them."

225 *Brief*, 222, 172.

226 Thomas E. Watson, "The Official Record in the Case of Leo Frank, a Jew Pervert," *WM*, Sept. 1915, 275, 288; *WM,* Aug. 1915, 200. According to Watson: "Of course, Jim Conley did not know that Frank had ever used those words to a white girl, and the corroboration is powerful." Later, Wood was one of many witnesses who, after the trial, recanted her damaging testimony. See "M'Knight Badly Injured Trying To Slip Into City Unnoticed By Detectives," *AC*, Mar. 15, 1914. Also, *AG,* May 8, 1913, final ed., 2; *AJ*,

May 9, 1913, 6; Phagan Kean, *The Murder*, 140-41; *AC*, May 2, 1914, 2; *AJ*, May 5, 1914.

227 *AC*, May 9, 1913, 1, 2; *Pinkerton*, filed by L.P. Whitfield, May 10, 1913, 21.

228 "Frank and Lee Ordered Held by Coroner's Jury for Mary Phagan Murder," *AC*, May 9, 1913, 2.

229 "Girls Testify To Seeing Frank Talking to Little Mary Phagan With His Hands on Her Person," *AC*, Aug. 21, 1913, 2; *WM*, Sept. 1915, 287; *Brief*, 222-23.

230 "State is Hard Hit By Judge's Ruling Barring Evidence Attacking Frank," *AC*, Aug. 20, 1913, 1-2; "Witness Swears He Saw Frank Forcing Unwelcome Attentions Upon the Little Phagan Girl," *AC*, Aug. 20, 1913, 2. Also *Brief*, 223-24.

231 *Brief*, 222; "Frank's Character Bad Declare Many Women and Girls on Stand," *AC*, Aug. 21, 1913, 2; MANGUM, 149-54, 157.

232 *AG*, May 1, 1913, final ed., 2; *AG*, May 1, 1913, home ed., 2; Phagan Kean, *The Murder*, 66-67; *Pinkerton,* filed by L.P. Whitfield, May 2, 1913, 2. See also "Girls Testify to Seeing Frank…" *AC,* Aug. 21, 1913, 2; *AC,* May 1, 1913, 1; "Witness Swears He Saw Frank…" *AC,* Aug. 20, 1913, 2; "Evidence Ended; Argument Will Open Today," *AC,* Aug. 21, 1913, 1.

233 "Frank Tried to Flirt With Murdered Girl Says Her Boy Chum," *AC,* May 1, 1913, 1, 2. After the trial Epps retracted his testimony, claiming that Atlanta detective John Black concocted the story so it would be consistent with Jim Conley's testimony. But Epps's father declared that the boy had told him and his mother the same story (that he had testified to) before he ever met Detective Black. And Chief Lanford says that his retraction could not be true because at the time the boy first swore to the story, Conley had not yet been arrested or told his version of the events. See *AJ,* Mar. 9, 1914, 1; *AJ,* Mar. 4, 1914, 1, 2; *AJ,* Mar. 5, 1914, 1, 2; *AJ,* May 5, 1914, 1, 2.

234 *AG*, May 1, 1913, final ed., 2.

235 *Pinkerton*, filed by L.P. Whitfield, May 6, 1913, 10.

236 *Pinkerton*, filed by L.P. Whitfield, May 3, 1913, 5; May 5, 1913, 8-9; May 6, 1913, 10-11.

237 *Pinkerton*, filed May 9, 1913; *Pinkerton*, filed by Harry Scott, May 8, 1913, 15. Supervisor N.V. Darley, a married man, was accused of being "entirely too intimate with the girl employees under him," with a habit of taking them out to theaters and to supper. Also, *Brief*, 234.

238 MANGUM, 49ff; "He Saw Dalton Enter Factory with Women," *AC,* Aug. 21, 1913, 3. Another witness named D.

B. Maynard testified that he saw Dalton entering the factory with a woman. *AJ,* Aug. 21, 1913, 2; "Return of Negress Ordered…" *AC,* May 5, 1914, 10; *AC,* Aug. 10, 1913, 1, 2, 3; *AC,* Aug. 9, 1913, 2, in which Frank's "right hand man," factory day watchman and timekeeper E. F. Holloway, is caught admitting to Frank's beer habit; *AC,* Aug. 8, 1913, 1, 2. After the trial Dalton swore that a representative of Frank offered him $100 to sign a paper, "to be used before the Pardon Board, to keep Frank from hanging." He said "two Jews" came to him and offered him $400 to leave the state. They came to him several times, and renewed the offer, stating that they meant to get Frank a new trial. See "The Official Record in the Case of Leo Frank, a Jew Pervert," *WM*, Sept. 1915, 287-88; *AJ*, May 4, 1914, 4, 7.

239 *Brief*, 50-53; "Defense May Call For Character Witnesses Today," *AC*, Aug. 8, 1913, 1. See also Samuels, *Night Fell*, 151: "[Reuben]Arnold said plaintively, 'Surely, Frank cannot be held responsible for all the intercourse which took place in the pencil factory or Atlanta.'"

240 Oney, *ATDSR,* 309.

241 Oney, *ATDSR,* 132; *AG,* Aug. 21, 1913, home ed., 2; *AG,* Aug. 21, 1913, evening ed., 2; *AG,* Aug. 21, 1913, afternoon ed., 2; *AJ,* Aug. 21, 1913.

242 "Defense Asks Judge Roan To Strike From Records Part of Conley Testimony," *AC*, Aug. 6, 1913, 2-3; *AC,* Aug. 7, 1913, 2, 3; *AG,* Aug. 6, 1913, 3; *AG,* Aug. 7, 1913, 3; *AJ,* Aug. 10, 1913, 1.

243 MANGUM, 119. Louis Marshall further stated (ibid., 124) in Frank's appeal: "The defendant's reputation or character for immorality or loose conduct with women are not relevant subjects for consideration."

244 Dinnerstein, *Leo Frank Case*, 172; Melnick, *Black–Jewish Relations*, 72; Lindemann, *The Jew Accused*, 256.

245 "Arnold Ridicules Plot Alleged by Prosecution," *AC,* Aug. 22, 1913, 2.

246 *AJ,* Aug. 22, 1913, 10. Emphasis ours. A thousand American lynch mobs were provoked by acts far less egregious than what Arnold here admits about Leo Frank.

247 *Pinkerton*, filed by W.D. MacWorth, May 16, 1913, 30.

248 "Rooming House Sought By Frank Declares Woman," *AC,* May 23, 1913; *AG,* Feb. 20 and 22, 1914; *AG,* Mar. 4, 1914; "Woman Admits She Lied About Frank," *NYT*, Feb. 26, 1914, 1, 2, and *NYT,* Feb. 27, 1914; "Mrs. Formby Here For Phagan Trial," *AC,* June 19, 1913; "Plied With Whisky She Lied In Story Told About Frank Says Mrs. Formby," *AC,* Feb. 26, 1914. See also *Pinkerton*, filed by

W.D. MacWorth, May 14, 1913, 27.

249 "Frank Asked Room To Conceal Body Believes Lanford," *AC*, June 2, 1913, 1, 2. Also, *AC,* Feb. 26, 1914, 1: "'The apartment house in which she lived was in a locality through which Leo M. Frank passed frequently on his way to work, or on his way to visit friends,' according to Mrs. Formby." "New Witnesses in Phagan Case Found by Police: Reported Two Telephone Operators Will Swear to Conversations Held Over the Pencil Factory's Line: Gave Their Testimony Before the Grand Jury," *AC*, May 26, 1913, 1-2.

250 *WP*, June 2, 1913, 1; "The Phagan Case Day by Day," *AC,* May 12, 1913, 2; "The Case of Mary Phagan," *AC,* May 4, 1913, B5; "Frank and Lee Held in Tower," *AC,* May 2, 1913; "Held on Murder Charge in Mary Phagan Case," *AC,* Apr. 29, 1913; *AC,* Apr. 28, 1913, 1, 2; *WP*, Mar. 14, 1914, 3; "Strangler Kills Girl," *WP,* Apr. 28, 1913, 1; *NYT,* Mar. 2, 1914, 3.

251 "Officer Swears He Found Frank with Young Girl," *AC,* May 11, 1913; "Caught Frank with Girl in Park, He Says," *Hearst's Sunday American*, May 11, 1913, 4A. Frank's attorneys assail the House allegations in *AG,* May 27, 1913, 5.

252 Mayor James G. Woodward, of Atlanta, made that clear in a speech he gave to a San Francisco convention just after Frank's lynching, where he cited the protection of white womanhood as justification for Frank's demise. "Mayor Woodward Gives His Views of Lynching," *AJ,* Aug. 18, 1915. Frank's Jewishness was not a concern for him. The mayor had in the previous year addressed the Atlanta convention of the Grand Lodge of B'nai B'rith, expressing his friendship and pledging himself "to assist the order in any way possible." Frank—convicted of murder and incarcerated at the county jail at the time—was the *president* of the hosting Atlanta chapter. *AJ,* Mar. 30, 1914.

253 Gregory K. Smith, "Powell v. State: The Demise of Georgia's Consensual Sodomy Statute," *Mercer Law Review,* vol. 51 (2000), http://www2.law.mercer.edu/lawreview/getfile.cfm?file=51310.
pdf; "Defense Asks Judge Roan to Strike from Records Part of Conley Testimony," *AC,* Aug. 6, 1913, 2. For a history of Georgia's sodomy laws, see George Painter, "The Sensibilities of Our Forefathers: The History of Sodomy Laws in the United States—Georgia," *Gay & Lesbian Archives of the Pacific Northwest*, http://www.glapn.org/sodomylaws/sensibilitiesgeorgia.htm.

254 "Arnold Ridicules Plot Alleged by Prosecution And Attacks the Methods Used by Detective," *AC*, Aug. 22,

1913, 2. Ironically, in the very same article and speech Arnold said, "I would rather die before doing injustice to a Jew."

255 "Lawyers on Both Sides Satisfied With Conley," *AJ*, Aug. 5, 1913, last ed., 1.

256 Steve Oney, "The Lynching of Leo Frank," *Esquire*, Sept. 1985, 104.

257 Aug. 6, 1913, extra ed., 1, 2. The headline's subtitle: "Negro's Long Grill Ends After 15 Hours, His Main Story Still Unshaken." Also, "Sweeper's Grilling Ends After $15^{1/2}$ Hours, His Main Story Unshaken," *AG*, Aug. 6, 1913, evening ed., 1.

258 James B. Nevin, "Can Jury Obey If Told to Forget Base Charge?" *AG*, Aug. 6, 1913, 3.

259 Leonard Dinnerstein, "The Fate of Leo Frank: Victim of Anti-Semitism," *American Heritage* 47, no. 6 (Oct. 1996): 98ff.

260 *AJ,* June 21, 1915; *NYT,* June 22, 1915.

261 *AJ,* Aug. 10, 1913, 1.

262 *AG*, Aug. 15, 1913; "Numerous Witnesses Called In Frank Case," *AC*, July 29, 1913, 2; "Many Testify to Frank's Good Character," *AG*, Aug. 16, 1913, 3; *AJ*, Aug. 13, 1913, 1, 4; *AG*, Aug. 13, 1913, 1; "More Classmates Come to Aid of Prisoner and Testify to His Standing," *AG*, Aug. 14, 1913, 5; *AJ*, Aug. 14, 1913, 5; *AC*, Aug. 14, 1913, 2, 3.

263 *AC*, Aug. 22, 1913, 5: Assistant Prosecutor Frank Hooper "referred to Frank as a Dr. Jekyl and Edwin Hyde, and explained how easy it was for people who saw only one side of him to imagine him a paragon of the virtues. He told of what he termed the man's persistent pursuit of Mary Phagan. He spoke of the discharge of Gantt, the only man who knew Mary Phagan at all well, and said this was significant of the man's designs on the girl." Also, *AJ*, Aug. 21, 1913, last ed., 2, col. 2.

264 Hertzberg, *Strangers*, 172; Lindemann, *The Jew Accused*, 244-45, and 227; *The Secret Relationship*, 2:43-82.

265 *Hearst's Sunday American*, May 11, 1913, extra ed., 2A.

266 See *Brief*, 45, 46, 47, 49, 50, 240, 241. See *AC*, Aug. 7, 1913, 2; *AC*, Aug. 3, 1913, 1, 2. Also, *AC,* Aug. 2, 1913, 3; *AJ*, Aug. 20, 1913, 1, 3; *AG*, Aug. 20, 1913, 2: Dr. John Funke corroborated Dr. Henry Harris's determination that Mary had been sexually "outraged," a victim of "criminal violence." Also, *Argument of Hugh Dorsey,* 45, 66, 67, 81, 82; *AC*, Aug. 24, 1913, concerning Mary Phagan "ravished" by Leo Frank.

267 "Rosser Makes Great Speech for the Defense; Scores Detectives and Criticizes the Solicitor," *AC,* Aug. 23, 1913,

2.

268 *AJ,* Aug. 22, 1913, 11.

269 *AG*, May 4, 1913, 2A.

270 Blacks had testified in court before but were only given credence when it served white interests, such as when it implicated another Black person. Victor B. Howard, "The Black Testimony Controversy in Kentucky, 1866-1872," *Journal of Negro History* 58, no. 2 (April 1973): 140-165. Pastor L. Bricker of the First Christian Church of Atlanta: "Under ordinary circumstances, we in the South do not take the word of a negro against the word of a white man..." *Charlotte Daily Observer*, Mar. 16, 1914, 9; *Idaho Daily Statesman*, Mar. 16, 1914, 3.

271 Stephen A. Brown, "When Middle-Class Ambition Met Southern Honor: A Cultural History of the Leo Frank Case" (PhD diss., Univ. of Illinois, Chicago, 1999), 206. One man, a self-proclaimed phrenologist (phrenology is the pseudoscience of head shapes as an indicator of certain mental faculties and character traits), concluded that based on Frank's head shape, "the real murderer was a nig." See Melnick, *Black–Jewish Relations,* 59.

272 As a condition of reentry into the Union after the Civil War, all Atlanta city ordinances that discriminated on the basis of race were repealed. But, true to form, Blacks were given the right to vote in Atlanta in 1868, the same year the state of Georgia expelled all Blacks from its legislature. See Frey and Thompson, *The Silent,* 62. The *Atlanta Georgian* reiterated the points that "when [a] white man's word is brought in combat against [a] negro's word, there is no question as to the winner" and that "negro evidence is as slight as tissue paper." *AG*, Aug. 5, 1913, home ed., 4. For a relevant discussion of "negro law" as applied in Mississippi, see Neil R. McMillen, *Dark Journey: Black Mississippians in the Age of Jim Crow* (Urbana: Univ. of Illinois Press, 1990), 201-6, and Charles S. Sydnor, "The Southerner and the Laws," *Journal of Southern History* 6, no. 1 (Feb. 1940): 11ff. In the very same *New York Times* article (November 14, 1865) that reported Gen. O.O. Howard's notification to Blacks "that the plantation lands would not be divided among them," it reported that the Mississippi State Legislature "is still engaged in discussing the negro testimony question." "There is nothing that so shocks the system" as negro testimony, wrote Judge John Bell of Tennessee in 1866. *Macon Daily Telegraph*, Jan. 17, 1866. Also, Walter L. Fleming, *Documentary History of Reconstruction, 1865 to 1906* (Cleveland, 1906), 1:252ff. In an Alabama case in 1914 the judge stated in open court, "I wouldn't believe a nigger any quicker than a pink-eyed

rabbit." On appeal, the higher court ruled that the statement was not enough to have prejudiced the jury or to invalidate the trial. See "Negro's Testimony Not Believed by Court," *Virginia Law Register* 19, no. 12 (April 1914): 958.

273 *The Secret Relationship*, vol. 2.

274 By 1900, Blacks, who composed nearly one-half the population of Georgia, owned only four percent of the total value of assessed property in Georgia.

275 There is no evidence that the prosecutors had intended to effect this kind of revolutionary change. Dorsey and co-counsel were singularly focused on the conviction of Frank, whom they believed to be Mary Phagan's murderer.

276 Max Heller, "The Frank Case," *American Israelite*, Nov. 20, 1913, 4. The use of the term "manhood" by the rabbi is significant in that Jewish masculinity was consciously being established in this era. See Caroline E. Light, *That Pride of Race and Character: The Roots of Jewish Benevolence in the Jim Crow South* (New York: NYU Press, 2014), 135-37, passim.

277 *AJ,* Oct. 30, 1913. Even if the jury of white men accepted this argument (and there is no doubt they did), they had the benefit of hearing from "Anglo-Saxon women" witnesses for the opposing side.

278 *AC*, Oct. 30, 1913.

279 *AG*, Aug. 22, 1913.

280 Leo M. Frank, "I Am Not Guilty," *Jewish Criterion* (Pittsburg, Pa.), Aug. 14, 1914, 6.

281 Also, *AJ*, May 31, 1913.

282 *AJ,* Aug. 22, 1913, 11; Reuben Arnold's closing arguments in *AJ*, Aug. 21, 1913, 1, 4; *AG*, Aug. 21, 1913; *AG*, Aug. 22, 1913; *AC*, Aug. 22, 1913. The prosecutor in response enumerated those Jewish individuals who had committed violence and murder. *Argument of Hugh Dorsey,* 3-4; *Jeffersonian*, Jan. 28, 1915, 1, 6.

283 *AC,* Aug. 22, 1913, 5.

284 *AC,* Aug. 22, 1913, 2.

285 *AC,* Aug. 22, 1913, 3. Of course, Arnold was unintentionally describing what white men—knowing they would never "get caught"—had *always* done to Black women and girls. See Levy, "'Is the Jew a White Man?'" 261-70; Ida B. Wells-Barnett, *On Lynchings: Southern Horrors, A Red Record, Mob Rule in New Orleans* (New York: Arno Press, 1969); Ida B. Wells-Barnett, "Lynch Law in America," *The Arena* 23, no. 1 (Jan. 1900): 15-24; Ida B. Wells-Barnett, *Lynch Law in Georgia: A Six-Weeks' Record in the Center of Southern Civilization, As Faithfully Chronicled by*

the Atlanta Journal and the Atlanta Constitution: Also the Full Report of Louis P. Le Vin, the Chicago Detective Sent to Investigate the Burning of Samuel Hose, the Torture and Hanging of Elijah Strickland, the Colored Preacher, and the Lynching of Nine Men for Alleged Arson (Chicago, 1899); Ida B. Wells-Barnett, "Lynching and the Excuse for It," *Independent*, May 16, 1901; Frederick Douglass, *Why is the Negro Lynched?* (reprint,1895), 10-11; *The Secret Relationship*, 1:196-201 and passim; *The Secret Relationship*, 2:459-63.

286 *AC,* Aug. 22, 1913, 2. See "Arnold Opens Argument Charging Persecution," *AG,* Aug. 21, 1913, extra ed., 5; *AG,* Aug. 21, 1913, extra ed., 3: "'Frank Prosecuted Because He Is a Jew,' He [Arnold] Says to Jury." See the section herein "Injecting Anti-Semitism into the Trial: The Brent–Kendley Affair."

287 Dinnerstein, "Atlanta in the Progressive Era: A Dreyfus Affair in Georgia," in *The Age of Industrialism in America: Essays in Social Structure and Cultural Values*, ed. Frederic Cople Jaher (New York: Free Press, 1968), 145, 147. Dinnerstein uses the phrase "Negro Jim Conley's testimony" but would never use the language "Jew Leo Frank's testimony" and would condemn such language as anti-Semitic. Also, Lindemann, *The Jew Accused*, 236. See "The Frank Case," *AI,* Nov. 5, 1914, 4.

288 Stephen S. Wise, "The Case of Leo Frank: A Last Appeal," *Free Synagogue Pulpit* 3, no. 5 (May 1915), 89. Illogically, Rabbi Wise argues passionately against the idea of "Jewish crimes." Jeffrey Melnick (*Black-Jewish Relations,* 64) notes that Wise's response "is noteworthy for its acceptance of the racial terms of the case against Frank." Wise decried the suggestion that there was a class of crimes called "Jewish crimes," and he also erroneously charged that

> the Prosecuting Attorney must have been among those who knew, that to call the murder of Mary Phagan the crime of a depraved and degenerate Jew was an immeasurable wrong to a whole people…

Neither Dorsey nor his lawyers said anything of the sort. Melnick (p. 65) writes that Rabbi Wise "implicitly presents a scheme in which he grants that Jews have their own particular *racial* 'imperfections and failings,' but still situates them on a vertical path up to whiteness." (Melnick's emphasis.)

289 White slavery was first suspected in the Phagan murder. See "Pinkertons Hired To Assist Police," *AC,* Apr. 29, 1913, 1. Robert Rockaway, review of *Prostitution and Prejudice:*

The Jewish Fight Against White Slavery, *1870-1939,* by Edward J. Bristow, in *Studies in Contemporary Jewry*, vol. 2, ed. Peter Y. Medding (Bloomington, IN: Indiana Univ. Press, 1986), 310; Bryan Edward Stone, "Edgar Goldberg and the *Texas Jewish Herald*: Changing Coverage and Blended Identity," *Southern Jewish History* 7 (2004): 87-92, 95-97, 106 n. 57, 107 n. 68 and 69. Also, see the discussion of how the crime of rape is treated by the ancient Talmudic rabbis, in Judith Romney Wegner, *Chattel or Person? The Status of Women in the Mishnah* (New York: Oxford Univ. Press, 1988), 22-28. Of 126 "disreputable houses" investigated in New York, Jews constituted the "largest number of proprietors." See Jean Ulitz Mensch, "Social Pathology in Urban America: Desertion, Prostitution, Gambling, Drugs and Crime among Eastern European Jews in New York City between 1881 and World War I" (PhD diss., Columbia Univ., 1983), 77. Also, Isabel Vincent, *Bodies and Souls: The Tragic Plight of Three Jewish Women Forced into Prostitution in the Americas* (New York: William Morrow, 2005); Jeff Lesser, *Welcoming the Undesirables: Brazil and the Jewish Question* (Berkeley and Los Angeles: Univ. of California Press, 1995). Also, see *The Secret Relationship*, 1:196-201, for Jewish rape of African women.

290 Indeed, these epithets were repeated at every opportunity by Frank and his operatives in court and in the press. *AJ,* Aug. 21-22, 1913; *AG*, Aug. 21-22, 1913; Melnick, *Black–Jewish Relations,* 140, note 18. For the use of "nigger" in the trial see for example *AG,* Aug. 5, 1913; *AC*, Aug. 9, 1913; *AG*, Aug. 22, 1913; *AC*, Aug. 22, 1913. One defense witness admitted under oath that she "do[es]n't know of any nigger on earth [she]'d believe." *Brief*, 120. The *AC*, Aug. 16, 1913, 2, reported, "This caused considerable laughter." Also, *AG*, Aug. 15, 1913, 6, reported the exchange. See also a similar statement by a defense witness in "Long List of Girls Testify to Frank's Good Character," *AC*, Aug. 17, 1913, 3; Burton Rascoe, *The Case of Leo Frank: A Factual Review of One of the Most Sensational Murder Cases in Court Annals* (Girard, KS: Haldemann-Julius, 1947), 33.

291 *The Trial of Leo Frank: Reuben R. Arnold's Address to the Court in His Behalf* (Baxley, GA: Classic, 1915), 67 (hereafter cited as *Arnold's Address*). Emphasis ours. Melnick, *Black–Jewish Relations*, 73: During the commutation hearing in 1915, "one of Frank's representatives" said, "[T]he brain 'of the negro ordinarily is equal to a creek eel.'" "Commutation Hearing Before

Gov. John M. Slaton," 187.

292 *Arnold's Address*, 51-52. Arnold illuminated for his audience the term "negro" versus "nigger": "The first word that a nigger learns to spell correctly is *negro*, and he always takes particular pains to spell it n-e-g-r-o." *AC,* Aug. 22, 1913, 3.

293 "Frank Not Guilty of Phagan Murder Declares Arnold," *AC,* June 22, 1913, 1; "Arnold to Aid Frank," *AG,* June 22, 1913, 1: Arnold states, "I do not believe that any white man committed the crime." *AG*, Aug. 22, 1913, 7: "The notes are the product of a negro brain."

294 *AC,* Aug. 22, 1913, 3.

295 *AJ,* Aug. 22, 1913, last ed., 5. Oney provides a rearranged and incomplete quote in *ATDSR,* 324. See also Hertzberg, *Strangers*, 207; Golden, *A Little Girl Is Dead,* 181-83. The Samuelses (*Night Fell,* 158) noted that "the men defending Frank, while protesting the prejudice against Jews, saw no reason why anyone should object to their own often expressed prejudice against Negroes." See also "Rosser Makes Great Speech for the Defense," *AC,* Aug. 23, 1913, 2, 3. Consider the language used in an *Atlanta Constitution* article by Britt Craig ("'Break' in the Frank Trial May Come With the Hearing of Jim Conley's Testimony," *AC*, Aug. 3, 1913, 3), in describing the "bath" given to James Conley, a 27-year-old Black man, and whether the actions ascribed to the police could have ever been visited upon Leo Frank, a Jew:

> They took him into the backyard where nobody could see, it is said, and turned a liberal hose on him. They scoured and scraped and scoured and scraped and had him as shiny as the brass trimmings on a 1914 model auto. Then they took him back into the prison and sicced a negro barber on him. The barber shaved his head and his face until it was as slick as an egg.

Within just a few years one of the leaders of Jewish organized crime, Arnold Rothstein, would be credited by the United States government with being the sole source of imported narcotics in America. See U.S. Senate, *Organized Crime and Illicit Traffic in Narcotics: Hearings Before the Permanent Subcommittee on Investigations of the Committee on Government Operations,* Senate Resolutions 17 and 278, 88th Congress, 1st session, *Congressional Record*, vol. 5, pts. 4-6 (Washington, DC: Govt. Printing Office, 1963): "The Jewish racketeers of New York almost exclusively controlled narcotics, but back in the 1920's, the leader at

that time was Arnold Rothstein." Robert A. Rockaway, "Hoodlum Hero: The Jewish Gangster as Defender of His People," *American Jewish History* 82, nos. 1-4 (1994-95), 215:

> During Prohibition [in effect from 1920 to 1933] fifty percent of the leading bootleggers were Jews, and Jewish criminals financed and directed much of the nation's narcotics traffic. Jews also dominated illicit activities in a number of America's largest cities, including Boston, Cleveland, Detroit, Minneapolis, New York, and Philadelphia.

The charge against Conley as being a cocaine user is unproved and unsubstantiated, but there is important context to this issue provided by Adolph Ochs, the Jewish owner of the *New York Times*:

> The use of "coke" is probably much more widely spread among negroes than among whites. "Heaven dust" they call it. Its use by negro field hands in the South has spread with appalling swiftness and results. There is little doubt but that *every Jew peddler in the South carries the stuff,* although many States have lately made its sale a felony. [Emphasis ours]

See "The Growing Menace of the Use of Cocaine," *NYT*, Aug. 2, 1908, SM1.

296 *AG,* Aug. 5, 1913, 2; *AJ,* Aug. 6, 1913, 4.

297 *AG*, Aug. 22, 1913; *AJ,* Aug. 22, 1913, last ed., 5; *AG,* Aug. 21, 1913, 5: Reuben Arnold: "It was the crime of a savage negro, whose first attack is violence, because he can not accomplish his object in any other way." Arnold repeated, "It's a nigger crime, gentlemen; it's a nigger crime." *AJ,* Aug. 22, 1913, 11.

298 See *AC,* July 30, 1913, 1-2, 3; *AJ*, July 29, 1913; *AC,* May 1, 1913, 1: Lee's "straightforward story at the inquest has tended to lift suspicion from him."

299 "Blood Found by Dr. Smith on Chips and Lee's Shirt, "*AC*, Aug. 1, 1913, 5.

300 "Mayor Confers With Chief; Says Extras Are Misleading," *AC,* Apr. 30, 1913, 3.

301 Melnick, *Black–Jewish Relations,* 42, 59, 111, 114; MacLean, "The Leo Frank Case Reconsidered," 917-48, esp. 924; Levy, "'Is the Jew a White Man?'"

302 Melnick, *Black–Jewish Relations,* 60. Note that even in decrying Frank's racism, Melnick continues to reinforce the false notion that "anti-Semitism" played any role in the case. This will be discussed further in this volume. Charles Wyszkowski, *A Community in Conflict: American Jewry During the Great European Immigration* (Lanham, MD: Univ. Press of America, 1991), 215: The practice connecting a criminal to his religious persuasion "was described by the editors of the *Hebrew* as cruelly invidious." An 1881 editorial asked: "When will our enlightened press cease to make special mention of the fact that Solomon Isaacs a Jew was arrested, or Rebecca Moses, a Jewess was detected in shop-lifting?…Why this discrimination?" Meanwhile the *Jewish* press routinely referred to Blacks as niggers (*Jewish Ledger*, Sept. 22, 1905), negroes (*NYT*, June 9, 1901), negresses (*AI*, Oct. 22, 1914, 5) and darkeys (*B'nai B'rith Magazine*, May 1925, 288); Brown, "When Middle-Class Ambition Met Southern Honor," 203-4.

303 Theodore Rosengarten, "The Haunting Questions of a Murder and a Lynching," *NYT,* Dec. 19, 2003, E43.

304 The statute in the Georgia Code, § 38-415 enacted for that purpose, provides:

> In all criminal trials, the prisoner shall have the right to make to the court and jury such statement in the case as he may deem proper in his defense. It shall not be under oath, and shall have such force only as the jury may think right to give it. They may believe it in preference to the sworn testimony in the case. The prisoner shall not be compelled to answer any questions on cross-examination, should he think proper to decline to answer.

See "*Ferguson v. Georgia* – 365 U.S. 570 (1961)," Justia US Supreme Court Center, http://supreme.justia.com/cases/federal/us/365/570/case.html.

305 Frank's statement is in the *Brief*, 174-220.

306 (Emphasis ours.) *The Class Book: Cornell University, Class*

of 1906 (Ithaca, NY, 1906), 79.

307 Jeffrey Melnick, "The Complicated Story of Leo Frank's Trial & Lynching: Black-Jewish Relations on Trial," lecture [quotation at 66 minutes, 30 seconds], Jacob Rader Marcus Center of the American Jewish Archives, Cincinnati, OH, May 4, 2010, http://americanjewisharchives.org/education/videos.php.

308 DeWitt H. Roberts, "Anti-Semitism and the Leo M. Frank Case" (unpublished essay of the Anti-Defamation League, n.d., ca. 1953, SC-3576, American Jewish Archives, Cincinnati, OH), 15. And the ADL assessed his witness-stand performance as "marked by a factual error (Frank's statement that the noon whistle blew) that completed the case against him." The whistle is significant because Saturday was a holiday, so the factory's manually operated noon whistle did not blow, though Frank continued to insist that it did and to base his time estimates on the phantom whistle.

309 *ATDSR*, 303.

310 Lindemann, *The Jew Accused*, 235-36.

311 Steve Oney, "The ADL and America's worst case of anti-Semitism," *Jewish Journal,* November 6, 2008, http://www.jewishjournal.com/nation/article/the_adl_and_americas_worst_case_of_anti_semitism_20081106/.

312 Ab Cahan, "Telling Story of Leo Frank From His Jail Cell," translated by Chana Pollack, published on August 20, 2013, Forward.com, August 23, 2013, issue, http://forward.com/articles/182405/telling-story-of-leo-frank-from-his-jail-cell/?p=all.

313 DeWitt H. Roberts, "Anti-Semitism and the Leo M. Frank Case" (unpublished essay of the Anti-Defamation League, n.d., ca. 1953, SC-3576, American Jewish Archives, Cincinnati, OH), 15.

314 Leo M. Frank, "I am Not Guilty," *Jewish Criterion* (Pittsburg, Pa.), Aug. 14, 1914, 6. Dorsey himself vehemently denied the charge. *AJ*, Oct. 28, 1913.

315 *Decision by Georgia Governor John M. Slaton to Grant Executive Clemency to Leo Frank*, p. 25, Leo Frank Clemency Application, 1915, Digital Collection, Clemency Applications, Convict and Fugitive Records, Governor's Office, RG 1-4-42, Georgia Archives, Georgia's Virtual Vault, http://cdm.sos.state.ga.us:2011/cdm/compoundobject/collection/frankclem/id/46/rec/2; "Whole Frank Case Reviewed in Slaton's Statement," *AC*, June 22, 1915.

316 Lindemann, *The Jew Accused*, 238.

317 Ibid., 252.

318 Hertzberg, *Strangers*, 309 n. 7; Lindemann, *The Jew Accused*, 251; *AG*, Apr. 30, 1913, 3. Dorsey later wrote that

his role in the Frank case "has cost me the friendship of practically every member of the Hebrew race in this county…" See *NYT*, Sept. 12, 1916, 3. See Bauman, "Factionalism and Ethnic Politics in Atlanta," 56, note 51. Also, Oney, *ATDSR*, 95, 96.

319 *The Secret Relationship*, vol. 2.

320 John D. Lawson, *American State Trials*, vol. 10 (1918), 264; *AC*, Aug. 22, 1913, 2.

321 *Argument of Hugh Dorsey*, 3-4; *Jeffersonian*, Jan. 28, 1915, 1, 6. Even the Jews favorably mentioned by Dorsey, Judah P. Benjamin and the Strauss brothers were all slaveowners —that is, they held Black human beings against their will as their own personal property. Benjamin had 140 captives, and after legal slavery he financed the Ku Klux Klan. Grady Hospital segregated Blacks and in 1912 administrators built a separate structure for Blacks only. Rabbi Marx was working actively and illegally on behalf of Leo Frank against Hugh Dorsey. Founded by Jewish slave dealer Philip Cohen, the Hebrew Orphan Society (est. 1801) was operated throughout the South by a succession of Jewish participants in the Black Holocaust, including David Lopez, his son, and Myer Moses—all slave dealers. See *Jews Selling Blacks: Slave Sale Advertising by American Jews* (Chicago: Nation of Islam, 2010), 33, 60-62, 84-87.

322 *AC*, July 27, 1913, B3; *AC*, July 29, 1913, 14; *AC*, May 9, 1913, 1; *AC*, May 24, 1913, 10.

323 Lindemann, *The Jew Accused*, 251-52.

324 Ibid., 252, and 236, 238, 240, 242, 244-45, 249.

325 Oney, *ATDSR*, 187-88. See Fink, *The Fulton Bag and Cotton Mills Strike*, 28, 86, 146. Also, *AC*, July 29, 1913, 14: "Sol Benjamin was excused because he had been a member of the grand jury that indicted Frank for the murder of the Phagan girl." See also "Girl Will Swear Office of Frank Deserted…" *AC*, May 10, 1913, 2, where the grand jury is described.

326 Golden, *A Little Girl Is Dead*, 227: "Five prominent members of the Jewish community were on the grand jury which indicted him."

327 "Burns Agency Quits The Phagan Case: Tobie Leaves Today," *AC,* May 27, 1913, 1, 2: "Chief Lanford and Harry Scott, of the Pinkertons, both say that they each unearthed evidence sufficient to convict the suspected superintendent." "Burns Man Quits Case," *AG,* May 27, 1913, 2: "[The Burns Agency's head detective C.W.] Tobie explained he believed Leo M. Frank was guilty of the Phagan murder and that the 'certain features' [of the case] meant additional clinching evidence not yet published that

will make Frank's conviction certain."

328 Clive Webb, "A History of Black-Jewish Relations in the American South, 1790-1970" (PhD diss., Univ. of Cambridge, 1997), 143; "Correspondents Hurt South by Sending Out Fake Boycott Stories," *AC*, June 25, 1915, 8; "Threaten Boycott of Georgia Jews," *NYT*, June 24, 1915, 5; Arnold Shankman, "Atlanta Jewry—1900–1930," *American Jewish Archives,* 25, no. 2 (Nov. 1973), 150; Lindemann, *The Jew Accused*, 270, 275-76, shows the effort "at an economic boycott of Jews at this time had little success." The *anti*-boycott efforts were actually aided by Hugh Dorsey, who wrote an appeal to the citizens of Marietta on behalf of "some of our best citizens," the Jews. See the June 23, 1915, handbill titled "To the Citizens of Marietta," American Jewish Archives, Cincinnati, OH.

See Harry L. Golden, "Jew and Gentile in the New South: Segregation at Sundown," *Commentary*, Nov. 1955, 407. Golden, *A Little Girl Is Dead*, 223, 224, mentions a "boycott" of Jews "inspired by Watson's editorials" and "planned by" the "Knights of Mary Phagan" but provides no substantive details. He does, however, give two examples of a Jewish boycott of Georgia (pp. 224-25). Advertising mogul Albert Lasker's economic strategy in the Leo Frank case was to pressure state officials through economic means. See Albert D. Lasker, interview by Boyden Sparkes, transcript, 1937, Albert D. Lasker Collection, Charles Deering McCormick Library of Special Collections, Northwestern Univ. Library, Evanston, Illinois.

329 "Do the Jew Business Men Want to Provoke Us Into a General Boycott?" *Jeffersonian*, Aug. 12, 1915, 9. "Atlanta Jews Going Too Far!" Watson charged that the Jewish retailer M. Rich & Bros. Co. discharged a Gentile clerk for no other reason than he had declined the company's demand for his signature to the petition in favor of a new trial for Frank (*Jeffersonian*, June 3, 1915, 6). The New York-based L. Heim & Sons, sellers of sweaters and Swiss hand-knitted novelties, refused an order from Georgia "until we are satisfied that law and order has again been restored." Adolph S. Ochs Papers, New York Times Company Records, Manuscripts and Archives Division, The New York Public Library.

330 *Frank v. Mangum*, 237 U.S. 309 (1915).

331 Emphasis ours. "The Frank Case," *AI*, Dec. 24, 1914, 4.

332 Burton Rascoe, *The Case of Leo Frank: A Factual Review of One of the Most Sensational Murder Cases in Court Annals* (Girard, KS: Haldemann-Julius, 1947), 36. Rascoe, a New York journalist and editor, calls the crowd "comparatively small for a sensational murder case."

333 See Alan M. Dershowitz, *Reasonable Doubts: The O.J. Simpson Case and the Criminal Justice System* (New York: Simon & Schuster, 1996), 13-14. Also, Alan M. Dershowitz, *America on Trial: Inside the Legal Battles That Transformed Our Nation* (NY: Warner Books, 2004), 515.

Much has been made about the hostile anticipation of the verdict and the potential for a violent reaction. This was true in the Leo Frank case, and Judge Roan conferred with attorneys for both sides about the atmosphere surrounding the verdict. But attorney Alan Dershowitz explained that the very same preparations were made for the 1995 O.J. Simpson verdict and that such measures taken did not reflect on the legitimacy of his trial. Before Simpson's "not guilty" verdict was read live, Judge Lance Ito had postponed the announcement for hours, the Los Angeles Police Department was put "on full alert," and President Bill Clinton was briefed on security measures should rioting occur nationwide. The United States Supreme Court received a message about the Simpson verdict during oral arguments, with the justices quietly passing the note to one another; and a meeting between the secretary of state and the director of the CIA was postponed. An estimated 100 million people worldwide stopped what they were doing to watch or listen to the announcement of the verdict. Long-distance telephone-call volume declined by 58 percent and trading volume on the New York Stock Exchange by 41 percent. Water usage decreased as people avoided using bathrooms at the time of the announcement, and government officials postponed meetings. Even in Israel, which was in the midst of Yom Kippur, wherein no electricity is allowed to be used, thousands ignored this holiest of practices to tune in to the verdict via radio or TV. "It was the most unproductive half hour in U.S. business history," costing the economy an estimated $480 million in lost productivity.

334 Hertzberg, *Strangers,* 211. Hertzberg contends that "Jewish Atlantans were sufficiently apprehensive that editor Albert Hershkowitz of the *American Jewish Review* could rhetorically inquire whether they were embarrassed to read a Jewish newspaper on the streetcar." This, however, is not actual "anti-Semitism," but a suggestion by one Jewish writer that other Jews might have been "embarrassed" by Leo Frank—not *fearful* of anti-Semitism or afraid for their lives.

335 MacLean, "The Leo Frank Case Reconsidered," 926. Arnold, a Gentile, was a supporter and confidant of the notoriously racist politician and attorney Hoke Smith and had even asked Smith to represent Frank. Bauman,

"Factionalism and Ethnic Politics in Atlanta," 56, note 53. See "Reported Hoke Smith May Aid Leo Frank," *AC,* June 25, 1913, 1.

336 Edgar Hutchinson Johnson, "The Leo Frank Case" (master's thesis, Florida State Univ., 1966), 84.

337 "Jews Fight to Save Leo Frank," *New York Sun,* Oct. 12, 1913, quoted in Oney, *ATDSR,* 366; "William Jackass Burns, at Another Angle," *Jeffersonian*, May 7, 1914, 9. Papers such as the *Washington Post*, Mar. 9, 1914, 5, referred to Mary Phagan as "a factory girl." Also, Frank often referred to the factory employees as "the help"—see *Brief*, 176, 177, 201, 205—as do others in *Brief*, 16 (Gracie Hicks), 76 (Darley), 87 (Schiff), 129 (Sigmund Montag). *Brief*, 249: In his alleged telegram to Adolph Montag, Leo Frank referred to a "*factory girl* found dead."

338 *Brief*, 122.

339 "The Leo Frank Case," *WM*, Jan. 1915, 156. At least 22 *New York Times* articles referred to Mary Phagan as a "factory girl."

340 *AJ*, May 23, 1913.

341 See *AJ*, May 15, 1913. Felder also claimed that "a committee of prominent ladies of the city" had asked him to undertake this initiative.

342 "Others Will Be Involved in New Bribery Charges Intimates Chief Lanford," *AC*, May 25, 1913, 2; "Scott Believes Conley Innocent, Asserts Lanford," *AC*, July 19, 1913, 1.

343 "Coleman Affidavit Which Police Say Felder Wanted," *AC*, May 24, 1913, 2.

344 "February and Colyar Swear That Felder Offered Big Bribe," *AJ*, May 23, 1913, 1.

345 See "…Lanford To Prosecute Felder," *AG,* May 26, 1913, home ed., 1.

346 Emphasis ours. Honkanen to Golden, Jan. 29, 1965, Box 14, Harry Golden Papers, Charlotte-McKlenburg Library, Charlotte, NC. Golden ignored Honkanen's revealing find and deceptively presented Felder as "proof" of the anti-Semitism surrounding the case—that is, Golden posed Felder as part of the "lunatic fringe" who was "motivated by a hunger for publicity," unconnected to Frank's defense team. See *A Little Girl Is Dead,* 68-71.

347 "Pinkertons Hired to Assist Police Probe the Murder of Mary Phagan," *AC*, Apr. 29, 1913, 1. See also *AJ*, May 27, 1913, last ed., 1; "Burns Agency Quits The Phagan Case: Tobie Leaves Today," *AC,* May 27, 1913, 2; *AC,* May 28, 1913, 1; *AG,* May 30, 1913, 2; *AC*, June 2, 1913, 2.

348 See the affidavit of Mary Phagan's stepfather, J.W.

Coleman, repudiating Felder's claim to be operating on behalf of Mary's family and friends, in *AJ*, May 23, 1913, 1.

349 Oney, *ATDSR*, 112.

350 This connection went as far back as the 1700s, when the slave-trading Jews based in colonial Newport, Rhode Island, fed rum into the Triangular Slave Trade as owners of all 22 rum distilleries in that slave port city. *The Secret Relationship*, 1:100.

351 "T.B. Felder Repudiates Report of Activity for Frank," *AG*, May 21, 1913.

352 *AJ*, Aug. 10, 1913, 1. The tactics of the defense were not just racist, but juvenile. They brought in a Jewish woman whom Dorsey had unsuccessfully prosecuted for murder, simply to sit there to try to "rattle" the prosecutor. See "Acquitted in the Same Court," *AC*, Aug. 1, 1913, 1.

353 Ibid.; *AJ*, Aug. 19, 1913.

354 *Brief*, 230-31. See "Denies He Said He Was Willing To Lead Party to Lynch Frank," *AC*, Aug. 20, 1913; "Witnesses Swear That Conductor Said He Wanted to Hang Frank," *AC*, Aug. 21, 1913.

355 Oney, *ATDSR*, 307, erroneously claimed that Kendley was more resolute: George Kendley "claimed that he'd actually seen little Mary walking toward the plant before 12:05…"

356 *Brief*, 241. Also, Oney, *ATDSR*, 312. Here are Brent's words as relayed by Steve Oney: "Kendley said Frank wasn't anything but an old Jew, and if the court didn't get him, he knew men who would [hang him]." Strangely, Oney leaves out Kendley's anti-Black racism, which is used in the scheme to suggest that Frank suffered as Blacks did. "Witnesses Swear That Conductor Said He Wanted to Hang Frank," *AC*, Aug. 21, 1913, 2. See *Brief*, 241, for T. Y. Brent's actual testimony.

357 *Brief*, 230-31: "As to whether I abused and villified him in the presence of Miss [Clementine] Haas and other passengers, there has been so much talk that *I don't know* what has been said. *I don't think I said* if he was released I would join a party to lynch him….*I don't remember* saying that I would join a party to help lynch him if he got out. I talked to Mr. Leach about it. *I don't remember* what I told him." Emphasis ours.

358 *Brief*, 145-46, 242.

359 *AC*, Apr. 29, 1913, 1.

360 *Brief*, 242.

361 *Brief*, 242.

362 In 1916, a "Sam Asher" and a "Clementine S. Haas" are listed along with several other Haases as donors to

"Atlanta's Relief Fund For Jewish War Sufferers." See *AC*, Jan. 30, 1916, 8. A photo of Sam Asher is shown here: "Atlanta Clothing Merchants Give Out Ringing Statements Indorsing [sic]," *AC*, Mar. 28, 1915, 7. Samuel L. Asher was for over a decade the buyer of furnishings for Muse's Clothing, a well-known and established Atlanta company. Soon—at 10 Peachtree St. (*Peachtree Arcade*) and 65 Peachtree St.—SAM ASHER & BROTHERS offered "Seasonable, Stylish, High Grade Clothing, Hats and Furnishing Goods for College Men At Reasonable Prices." Miss Clementine S. Haas was, in 1920, the Atlanta, Ga., delegate for the Ninth Triennial Convention of the Council of Jewish Women.

363 *AC*, Aug. 22, 1913, 2; *AG*, Aug. 21, 1913.

364 Burton Rascoe, *The Case of Leo Frank: A Factual Review of One of the Most Sensational Murder Cases in Court Annals* (Girard, KS: Haldemann-Julius, 1947), 36-37. Burton Rascoe was a journalist, editor, and literary critic for the *New York Herald Tribune* who began his career at the *Chicago Tribune*.

365 *Argument of Hugh Dorsey*, 3; *AJ*, Aug. 23, 1913.

366 Dinnerstein, *Leo Frank Case*, 52.

367 "The Lynching of Leo Frank," chapter 94 of *Chapters in American Jewish History*, American Jewish Historical Society, http://www.ajhs.org/ajhs-new/scholarship/chapters/chapter.cfm?documentID=284. The AJHS confines the alleged "anti-Semitism" to "the mob" and actually makes the all-white jury, judge, attorneys, and court officials its victims.

368 Golden, *A Little Girl Is Dead*, 309, says the case gave "impetus to the" ADL. "To Fight Defamation of Jews," *AI*, Sept. 25, 1913, 1, carries a statement, dated Sept. 19, 1913, from B'nai B'rith president Adolph Kraus announcing the formation of the ADL.

369 "1913-1920 ADL – In Retrospect," http://www.adl.org/ADLHistory/print_adl_history.asp. The ADL has sponsored lectures delivered by author Steve Oney.

370 Nathan C. Belth, quoting Herman Binder, in *A Promise to Keep: A Narrative of the American Encounter with Anti-Semitism* (New York: Times Books, 1979), 63. Why the rifle-toting antisemitic mobsters chose to target their fellow white gentiles (judge and jury) rather than simply shoot Frank and his lawyers and his Jewish supporters is not explained.

371 David Finnigan, "Q & A With Steve Oney," February 5, 2004, http://www.jewishjournal.com/arts/article/q_and_a_with_steve_oney_20040206/; Steve Oney, "*And the Dead Shall Rise*: An Overview," *Southern Cultures*, Winter

2005, 31. See also the Executive Clemency Hearing transcript, p. 71, quoting Dorsey refuting the claim of anti-Semitism. "Hearing before Gov. John M. Slaton re Commutation of the Death Sentence of Leo Frank," p. 71, Atlanta, Ga., June 12-16, 1915, Special Collections, Robert W. Woodruff Library, Emory Univ., Atlanta, Ga. Also, Oney, *ATDSR*, 453.

372 Phagan Kean, *The Murder*, 25, 65, says that "jurors, bailiffs, clerks, and court officials claimed that there were no disturbances or crowd noises until the verdict was announced." Of all the books on the subject, Mary Phagan Kean's is the most even-handed and respectful to all sides even though she concludes, correctly, that Leo Frank murdered her great-aunt. Clint Williams, "Leo Frank Killed Mary Phagan, Says Grand-niece," *Atlanta Journal-Constitution*, Jan. 6, 1999.

373 *NYT*, Feb. 27, 1914; and Leo M. Frank, "I am Not Guilty," *Jewish Criterion* (Pittsburg, Pa.), Aug. 14, 1914, 6. See "Applause Sweeps Courtroom When Dorsey Scores a Point," *AC*, Aug. 7, 1913, 3; *AG,* Aug. 15, 1913, extra ed., 3; *AG,* Aug. 6, 1913, extra ed., 1: and the jury was not in the courtroom at the time of those audience responses.

374 *AJ*, August 22, 1913, 1.

375 Dinnerstein, *Leo Frank Case* (1968), 60, repeats the "Hang the Jew" tale in his 1968 article titled "Leo M. Frank and the American Jewish Community," published in the *American Jewish Archives Journal* 20, no. 2 (1968), 108, 110, and introduces another statement, "Crack the Jew's neck," which he uses as a section heading in his article on the case, but the phrase is not repeated in the 1968, 1987, and 2008 editions of his book. Nor did the alleged use of the epithet "damned sheeny" and the remark "lynch him," which appeared in his article (p. 110), make it into his 1968 book (pp. 60-61). Despite being dropped from every recent study of the case Dinnerstein's 2008 reprint continues to advance the hang-the-Jew fiction (p. 60).

376 Jim Carnes, *Us and Them: A History of Intolerance in America* (Montgomery, AL: Teaching Tolerance, Southern Poverty Law Center, 1995), 70. *AJ*, Oct. 28, 1913: Dorsey admits that the citizens yelled "Hurrah for Dorsey" when the verdict came in, but that such a response was "quite different from cries of violence against the accused."

377 Alan M. Dershowitz, *America on Trial: Inside the Legal Battles That Transformed Our Nation* (New York: Warner Books, 2004), 219. Contrarily, Dershowitz wrote (p. 218) that the case was conducted in "a carnival atmosphere," an odd description suggesting a general but non-threatening excitement, rather than a "mob atmosphere," where fear

dominates and violence is imminent. A "carnival atmosphere" is probably a more accurate description of the Frank trial, which resembled other "carnival" trials like that of O.J. Simpson, a 1995 trial in which Dershowitz famously participated.

378 Murray Friedman, *What Went Wrong? The Creation and Collapse of the Black-Jewish Alliance* (New York: Free Press, 1995), 64.

379 *AI*, Sept. 16, 1915.

380 Dinnerstein, *Leo Frank Case* (p. 60) repeats Connolly's claims but does not name him as his source. Also, Oney, *ATDSR*, 453.

381 Brit Craig, "While Murder Trial Goes On Witnesses While Away Time With Old Camp Meeting Songs," *AC*, Aug. 7, 1913, 3. Also, when "audible laughter" was heard during Herbert Schiff's testimony, Judge Roan "commanded the sheriff to bring any person before him whom he caught laughing or creating any kind of disorder." *AJ*, Aug. 9, 1913, 5. And when a string of character witnesses were giving testimony, there was a report of laughter from some spectators. See *AG*, Aug. 15, 1913, 2. *AC*, Aug. 6, 1913, 2: "A laugh spread over the courtroom at this unique expression. Conley laughed, and so did the accused man and his wife."

382 *New York Sun,* Oct. 12, 1913, 6; Oney, *ATDSR*, 286, 669n; *AC*, Aug. 6, 1913, 2.

383 *AJ*, Aug. 1, 1913.

384 *AJ*, Aug. 10, 1913, 5.

385 *AJ*, July 30, 1913, 1. When there were instances of courtroom laughter, they were joined in by Mr. and Mrs. Leo Frank themselves! See "Factory Employee's Testimony Causes Laughter in Court Room," *AC,* Aug. 16, 1913, 2; and "Mincey Affidavit Is Denied," *AC*, Aug. 6, 1913, 2. See also *AJ,* July 30, 1913, 4; "Frank Laughs for First Time during Trial When Home Incident Is Told," *AG*, July 30, 1913, 2; *AG*, July 30, 1913, 1: "Frank laughed heartily."

386 *AJ*, July 28, 1913, 1.

387 Britt Craig, "While Murder Trial Goes On Witnesses While Away Time With Old Camp Meeting Songs," *AC*, Aug. 7, 1913, 3.

388 See *AC*, Aug. 6, 1913, 2; *AG*, Aug. 6, 1913.

389 *AJ*, Aug. 19, 1913.

390 Except when Frank's mother called the prosecutor Hugh Dorsey a "Christian dog" in open court. *New York Sun,* Oct. 12, 1913, 6; Oney, *ATDSR*, 286, 669n. *AC*, Aug. 6, 1913, 2: As "the result of the passionate outburst of Mrs. Rae Frank the day previous[,] Judge Roan gave warning that there

must be no more such demonstrations."

391 *AJ*, Aug. 25, 1913, 1. See also "Many Women Flock to Court to Hear Close of Frank Arguments," *AG*, Aug. 22, 1913, 5; "Women Throng to Court to Hear Close," *AG*, Aug. 22, 1913, 5.

392 *AJ*, Aug. 25, 1913, 5.

393 *AJ*, Aug. 26, 1913.

394 Stephen J. Goldfarb, "Leo Max Frank," in *Encyclopedia of American Jewish History*, vol. 1, eds. Stephen H. Norwood and Eunice G. Pollack (Santa Barbara, CA: ABC-CLIO, 2008), 175-80.

395 Eli N. Evans, "The Long Shadow of the Leo Frank Case," in *Seeking Justice: The Leo Frank Case Revisited,* ed. Jane D. Leavey (Atlanta: William Breman Jewish Heritage Museum, 2008), 4 ("last word"). Dinnerstein repeated it in the "Frank, Leo" entry in *Violence in America: An Encyclopedia*, ed. Ronald Gottesman (New York: Charles Scribner's Sons, 1999), 585.

396 "Frank Starts Prison Work; Noisy Crowd at Governor's Home Dispersed by Militia," *AC*, June 22, 1915, 1; "Militia Charges Crowd at Slaton Home; 26 Prisoners Now Held in County Jail," *AC*, June 27, 1915, 1. A Jewish merchant was reportedly harassed in Canton, Ga., but this isolated (alleged) instance gained no popular support. See Oney, *ATDSR*, 551-52. The *New Orleans American* ran a headline in its June 23, 1915, issue that was as dire and sensational as it was inaccurate: GEORGIA THREATENS TO WREAK VENGEANCE ON JEWS; GIVEN 24 HOURS TO LEAVE CANTON: FACTORY OF ALBERT KAUFMAN, FRIEND OF LEO M. FRANK, BURNED TO THE GROUND: THESE OUTRAGES THOUGHT TO BE ONLY BEGINNING OF ANTI-JEW DEMONSTRATIONS THAT MAY SHOCK COUNTRY. This was forcefully repudiated by the pro-Frank *Atlanta Constitution*: "Correspondents Hurt South by Sending Out Fake Boycott Stories," *AC,* June 25, 1915, 8.

397 *The Jew Accused*, 270.

398 "John M. Gant Accused of the Crime," *AG*, Apr. 28, 1913, 1.

399 *AG*, Apr. 29, 1913, 4. Also, "Is the Guilty Man Among Those Held?" *AG*, Apr. 29, 1913, 3, did not mention Leo Frank at all but did proceed to list (1) Newt Lee, (2) Arthur Mullinax, (3) Gordon Bailey, and (4) John Gantt, and then ask, "Is the murderer of Mary Phagan among the four men…?"

400 "'Lee's Guilt Proved' Detectives Assert: Suspicion Lifts from Frank," *AG*, Apr. 29, 1913, 1; *AC*, Apr. 29, 1913, 1. Frank, just a day earlier, had publicly defended Lee: "That

it was some one beside the negro who committed the murder is my belief, for the negro is a good man and I have never heard of him getting in any trouble or being offensive in any way to any of the employees." See "Negro is Not Guilty, Says Factory Head," *AG*, Apr. 28,1913, 3.

401 Golden (*A Little Girl Is Dead,* 38), quoting a letter by a Bellwood, GA, pastor published in Butler University's *Shane Quarterly*, April 1943.

402 Michael Bronski, "The Return of the Repressed: Leo Frank Through the Eyes of Oscar Micheaux," *Shofar* 23, no. 4 (Summer 2005): 26-49, doi:10.1353/sho.2005.0137.

403 Elaine Marie Alphin, *An Unspeakable Crime* (Minneapolis, MN: Carolrhoda Books, 2010), 26. Not true—a photo of Mary Phagan stripped naked was never published in any of the newspapers, let alone the *Georgian*, as depicted by Alphin. See Oney, *ATDSR*, 35, and front page of *AG*, Apr. 28, 1913, and "Arrested As Girl's Slayer: John M. Gant [sic] Accused of the Crime," *AG*, Apr. 28, 1913, 3.

404 Lindemann, *The Jew Accused*, 247. Eventually, the *Constitution* "seemed the most firmly persuaded of Frank's guilt." Steven Hertzberg, "The Jewish Community of Atlanta: From the End of the Civil War until the Eve of the Frank Case," *American Jewish Historical Quarterly* 62, no. 3 (March 1973): 281; *Jewish Sentiment*, Aug. 11, 1899, 3. There is nothing to suggest that the *Constitution*'s Jewish readership objected to the paper's opinion of Frank—no protests or contrary letters to the editor were recorded.

405 Dominic J. Capeci, Jr., and Jack C. Knight, "Reckoning with Violence: W.E.B. Du Bois and the 1906 Atlanta Race Riot," *Journal of Southern History* 62, no. 4 (Nov. 1996): 744. The white murderers gathered at their "headquarters," the O.H. Silverman Co. building, where they plotted the massacre. See Mark Bauerlein, *Negrophobia: A Race Riot in Atlanta, 1906* (San Francisco: Encounter Books, 2001), 171; Ray Stannard Baker, *The Atlanta Riot* (1907)*,* 18ff.

406 LeeAnn Lands, *The Culture of Property: Race, Class, and Housing Landscapes in Atlanta, 1880-1950* (Athens, GA: Univ. of Georgia Press, 2009), 75. If a reader missed the serialized version in Cohen's *Atlanta Journal*, she could buy a copy of Dixon's *Clansman* at the Jewish-owned Jacobs' Pharmacy, a place Frank patronized (*Brief*, 188, 201, 245). Cohen's *Journal* editorials would later promote the unpopular cause of Leo Frank's pursuit of a new trial and be responsible for infuriating Georgians like Tom Watson and turning them totally against Frank.

407 Emphasis ours. Steve Oney, "Murder Trials and Media

Sensationalism," *Nieman Reports,* Spring 2004, http://www.nieman.harvard.edu/reports/article/100884/Murder-Trials-and-Media-Sensationalism.aspx. Also, Oney, *ATDSR*, 98-100; Jeffrey L. Cruikshank and Arthur W. Schultz, *The Man Who Sold America: The Amazing (But True!) Story of Albert D. Lasker and the Creation of the Advertising Century* (Boston: Harvard Business Review Press, 2010), 141, citing "Grim Tragedy in the Woods, *NYT*, Aug. 19, 1915, 1; Herbert Asbury, "Hearst Comes to Atlanta," *American Mercury*, Jan. 1926, 92.

408 *AJ*, Aug. 2, 1913, 1.

409 *AJ*, Oct. 27, 1915.

410 Cruikshank and Schultz, *The Man Who Sold America*, 127, cites Oney, *ATDSR*, 97.

411 "Spontaneous Applause Greets Dorsey's Victory," *AC*, Aug. 7, 1913, 2, for example. The goldsmith Maier & Berkele, Inc., "Guaranteed Mesh Bags in German Silver" in their shop at 31 Whitehall St., in *AC*, July 30, 1913, 4.

412 *Brief*, 20; *AJ,* Mar. 30, 1914. See also Rich's ad for its "Silver Mesh Bag Sale," *AJ*, Oct. 10, 1913, 11.

413 William Curran Rogers, "A Comparison of the Coverage of the Leo M. Frank Case by the Hearst-Controlled Atlanta *Georgian* and the Home-Owned Atlanta *Journal*, April 28, 1913–August 30, 1913" (master's thesis, Univ. of Georgia, 1950), 32: "A majority of the *[Atlanta] Journal's* headlines…reflect an almost defensive attitude where Frank was concerned." Though he says (p. 34) "the *Georgian*'s tendency" was to present "anti-Frank" headlines, the coverage, writes Rogers (p. 33), "suggests that the aggregate information presented" by the newspaper "had at least given Frank a considerable benefit of doubt." Rogers (pp. 51, 95) examined the trial-related illustrations that were in the *Georgian* and in the *Journal*. These are significant, given the high level of illiteracy in the South at that time. The *Georgian* had 38 "pro-Frank" and 31 "anti-Frank" illustrations; the *Journal* had 22 "pro-Frank" illustrations and 9 "anti-Frank." The *Georgian* printed more "anti-Frank" headlines, but granted "the greater portion of its news columns to the pro-Frank element." The majority of the *Journal*'s headlines and column space were "pro-Frank" (pp. 69-70), and its editorials "defended Frank" (p. 91). After the trial, all 3 newspapers, including the *Constitution*, were decidedly pro-Frank.

414 *AG,* Aug. 5, 1913, 4.

415 *AJ*, July 27, 1913, 1, for example.

416 "*And the Dead Shall Rise*: An Overview," *Southern Cultures*, Winter 2005, 31.

417 *AJ*, Apr. 28, 1914.

418 *The Secret Relationship*, vol. 2.

419 William Bacon Stevens, *A History of Georgia*, vol. 1 (New York, 1847), 102-4.

420 Harry L. Golden, *Jewish Roots in the Carolinas: A Pattern of American Philo-Semitism* (Greensboro, NC: Deal Printing, 1955), 6. He calls the Carolinas a "completely free society" and a "300-year-old 'laboratory of philo-semitism.'" See Harry L. Golden, "The Jewish People of North Carolina," *North Carolina Historical Review* 32, no. 2 (April 1955): 195-96. Richard L. Zweigenhaft specifically interrogates those statements in "The Jews of Greensboro: In or Out of the Upper Class?" *Contemporary Jewry* 4, no. 2 (Spring/ Summer 1978): 60-76, and concludes (p. 71) that his "findings support the contention of Golden…" See also Howard Simons, *Jewish Times: Voices of the American Jewish Experience* (Boston: Houghton Mifflin, 1988), 219; Gerald Sorin, *A Time for Building: The Third Migration, 1880-1920*, vol. 3 of *The Jewish People in America*, ed. Henry L. Feingold (Baltimore: Johns Hopkins Univ. Press, 1992), 165. On page 226 of his book on the Frank case, *A Little Girl Is Dead*, Golden says:

> [N]owhere in America were Jews made more welcome than in Georgia. Indeed, the entire South had always been philo-Semitic.…[T]he Protestant fundamentalism of the South greeted the Jew with unusual generosity. As the Jew went about his business, peddling from home to home, or selling merchandise, his Gentile neighbors saw in him a living witness of all the Biblical truths about Moses, Isaiah, Jeremiah, and the Second Coming of Jesus.

421 *The Secret Relationship*, vol. 2.

422 *Jewish Encyclopedia* (1901), s.v. "agriculture."

423 Joseph Henry Gumbiner, *Isaac Mayer Wise, Pioneer of American Judaism* (New York: Union of American Hebrew Congregations, 1959), 76; David Philipson, *The Reform Movement in Judaism* (New York: Macmillan, 1907), 466-67.

424 Lindemann, *The Jew Accused*, 230; Barry R. Chiswick, "Jewish Immigrant Skill and Occupational Attainment at the Turn of the Century," *Explorations in Economic History* 28 (Jan. 1991): 77-78.

425 Steven Hertzberg, "The Jewish Community of Atlanta: From the End of the Civil War until the Eve of the Frank Case," *American Jewish Historical Quarterly* 62, no. 3 (March 1973): 267.

426 Frederic Cople Jaher, "Leo Frank: A Definitive Reassessment," review of *And the Dead Shall Rise: The Murder of Mary Phagan and the Lynching of Leo Frank*, by Steve Oney, *Midstream* 50, no. 7 (Nov.–Dec. 2004), 36. Also, Ruth Scheinberg, "The Pekl: Folk Histories of Jewish Peddlers in the South, 1890-1914," 1980, 8, Old South Miscellany, MSS 49, Box 1, Manuscript, Archives, and Rare Book Library, Emory University. Oney, *ATDSR*, 7, writes that "many of Atlanta's factories…were Jewish-owned."

427 Mark K. Bauman, "Jewish Community of Atlanta," *New Georgia Encyclopedia*, March 15, 2004, http://www.georgiaencyclopedia.org: "Jews routinely held seats on the aldermanic board, the school board, and in the state legislature." The German Jewish community of Atlanta serves, Bauman says, "as a case study of Southern urban political dynamics that were evident in Memphis, New Orleans, Savannah, and other cities." See his "Factionalism and Ethnic Politics in Atlanta: German Jews from the Civil War through the Progressive Era," in *Politics and Religion in the White South*, ed. Glenn Feldman (Lexington, KY: Univ. Press of Kentucky, 2005), 35-37; also Mark K. Bauman, "The Youthful Musings of a Jewish Community Activist: Josephine Joel Heyman," *Atlanta History* 39, no. 2 (Summer 1995): 47; Helen Jacobus Apte, *Heart of a Wife: The Diary of a Southern Jewish Woman*, ed. Marcus D. Rosenbaum (Wilmington, DE: Scholarly Resources, 1998), 67; Dinnerstein, *Leo Frank Case*, 66. Jews "did not face significant discrimination" in Atlanta, writes Lindemann, *The Jew Accused*, 231, 230. Also, see Louis Schmier, "The First Jews of Valdosta," *Georgia Historical Quarterly* 62, no. 1 (spring 1978), 43; Arnold Shankman, "Atlanta Jewry—1900–1930," *American Jewish Archives* 25, no. 2 (Nov. 1973), 131-33.

428 "Hebrews of Atlanta: The Important Part They Have Taken," *AC*, Jan. 12, 1890, 16.

429 Blackburn, "'In the Midst of the Whirl'," 78, 80. Blackburn cites *Jewish South*, Feb. 8, 1878, and Nov. 7, 1879. The Jewish newspaper counseled newcomers: "Our resources are innumerable…[W]e can stand afar off and say, go South, young man—go to Georgia." Also, Abraham J. Peck, "That Other 'Peculiar Institution': Jews and Judaism in the Nineteenth Century South," *Modern Judaism* 7, no. 1 (Feb. 1987): 101, 102.

430 "A History of Jews in Georgia," William Breman Jewish Heritage Museum, http://www.thebreman.org/research/stategeorgia.htm (retrieved April 9, 2009).

431 "Pappenheimer Home Burned to Ground with $25,000 Loss," *AJ*, May 31, 1914, 1; *AC*, May 31, 1914, 1.

432 *The Secret Relationship*, vol. 2.

433 Lindemann, *The Jew Accused*, 225.

434 Jacob Rader Marcus, *Memoirs of American Jews, 1775-1865*, vol. 1 (Philadelphia: Jewish Publication Society of America, 1955), 20.

435 Arnold Shankman, *Ambivalent Friends: Afro-Americans View the Immigrant* (Westport, CT: Greenwood Press, 1982), 132-33; Lindemann, *The Jew Accused*, 232-33. "Zhid" is a Russian anti-Jewish insult.

436 See chapter titled "Jews, Lynching, and the Ku Klux Klan," in *The Secret Relationship*, 2:395-467. Also Lindemann, *The Jew Accused*, 225: "There are even examples of Jewish participation in the Ku Klux Klan."

437 Emphasis ours. Golden, *Our Southern Landsman*, 129-30.

438 *The Secret Relationship*, 2:22, 232 n. 319, 404.

439 Eric L. Goldstein, "'Now Is the Time to Show Your True Colors': Southern Jews, Whiteness, and the Rise of Jim Crow," in *Jewish Roots in Southern Soil: A New History*, eds. Marcie Cohen Ferris and Mark I. Greenberg (Waltham, MA: Brandeis Univ. Press, 2006), 142.

440 Hertzberg, "The Jewish Community of Atlanta," 280-81; *Jewish Sentiment,* Dec. 31, 1897, 3; Aug. 24, 1900, 3; Oct. 28, 1898, 3.

441 Hertzberg, "The Jewish Community of Atlanta," 281; *Jewish Sentiment*, Nov. 11, 1898, 3; *Jewish Sentiment*, Aug. 11, 1899, 3. The great anti-lynching crusader and journalist Ida B. Wells debunked the "Black rape" myth in several of her writings. See Ida B. Wells-Barnett, *On Lynchings: Southern Horrors, A Red Record, Mob Rule in New Orleans* (New York: Arno Press, 1969); Ida B. Wells-Barnett, "Lynch Law in America," *The Arena* 23, no. 1 (Jan. 1900): 15-24; Ida B. Wells-Barnett, "Lynching and the Excuse for It," *Independent*, May 16, 1901. Also, Frederick Douglass, *Why is the Negro Lynched?* (reprint,1895), 10-11.

442 Emphasis ours. Bernard Postal, "Jews in the Ku Klux Klan: Klan-Like Organizations Have Existed Since the Adoption of the Constitution; Jews Played a Part in All of Them," *Jewish Tribune*, Sept. 14, 1928, 24, 60.

443 *Brief*, 294.

444 Lindemann, *The Jew Accused*, 260-62.

445 Shankman, "Atlanta Jewry," 131, 151-52.

446 Simons, *Jewish Times*, 19.

447 *The Secret Relationship*, 2:111.

448 Rebecca Burns, *Rage in the Gate City: The Story of the 1906 Atlanta Race Riot* (Athens, GA: Univ. of Georgia Press, 2009), 89. One must also consider how it is that a local Jewish merchant had enough guns to supply the sheriff of

a major city.

449 Oscar Pappenheimer, "A Practical Suggestion," letter to the editor, *AC*, Oct. 10, 1906, 8.

450 *Brief*, 126.

451 Lindemann, *The Jew Accused*, 225; Hertzberg, *Strangers*, 193.

452 Steven Hertzberg, "Southern Jews and Their Encounter with Blacks: Atlanta, 1850-1915," *Atlanta Historical Journal* 23 (1979): 13-14; Blackburn, "'In the Midst of the Whirl'," 70-71; Hertzberg, "The Jewish Community of Atlanta," 254, 264, 266, 282.

453 Clive Webb, "A History of Black-Jewish Relations in the American South, 1790-1970" (PhD diss., Univ. of Cambridge, 1997), 115.

454 For maps depicting these residential patterns, see Hertzberg, *Strangers*, 189-90.

455 Frey and Thompson, *The Silent*, 62.

456 Hertzberg, "Southern Jews," 18-19: "[B]lack leaders felt betrayed by the unwillingness of Jews to speak out against racism." Also, Hertzberg, *Strangers*, 172.

457 *AJ*, Feb. 11, 1914.

458 John Hammond Moore, "Jim Crow in Georgia," *South Atlantic Quarterly* 66, no. 4 (Autumn 1967): 554-65.

459 In his article on Atlanta Jews Steven Hertzberg wrote that they "responded less sympathetically to the condition of their black fellow citizens…[and] tended to share the racial views of their Gentile socioeconomic counterparts." See Hertzberg, "Southern Jews," 14.

460 Emphasis ours. Melnick, *Black–Jewish Relations*, 38.

461 *Brief*, 52-74.

462 Steve Oney, in 2008, at the commemorative opening of The Breman Museum's special exhibition "Seeking Justice: The Leo Frank Case Revisited." Also, Oney, *ATDSR*, 325, 389. For another example see Dinnerstein, *Leo Frank Case*, 45, 47-48.

463 *AG*, Aug. 5, 1913, night ed., 3.

464 Arnold, quoted in "Next Frank Trial May Be Held In Chatham County," *AC,* Oct. 26, 1913, 1, 3.

465 *Brief*, 70; "Lawyers Clash in Big Battle Over Testimony of Jim Conley," *AJ*, Aug. 6, 1913, 6. Frank's lawyers asked Conley about meetings he had had with detectives and prosecutors on May 27, 28, 29 (with detectives), 31 (detectives, Dorsey); June 5 (Dorsey, Det. Starnes), 6 (Dorsey, Det. Starnes), 15 (Dets. Starnes and Campbell); and July 3 (Dorsey, Campbell and Starnes), 12 (Dorsey and Hooper), and 16 (Dets. Starnes and Campbell). But the longest meeting Conley had (3-1/2 hours) was not with a

city detective or the prosecution, but with Leo Frank's own hired detective Harry Scott, of the Pinkertons. See *AG*, Aug. 6, 1913, 2.

466 Leo M. Frank, "I Am Not Guilty," *Jewish Criterion* (Pittsburg, Pa.), Aug. 14, 1914, 6. Oney, *ATDSR*, 188-89, reiterates this charge but provides no proof, other than that of the defendant himself, Leo Frank.

467 Lindemann, *The Jew Accused*, 255-56.

468 Vernon Stiles, "Phagan Trial Will Be Great Legal Battle," *AC*, July 27, 1913, B3.

469 *AC,* May 31, 1913; *AG,* May 30, 1913; *Brief*, 139-40.

470 *AJ,* Mar. 19, 1914 (sub-title: "[Burns] Scoffs at Theory that Prosecutor was Prejudiced"). The ADL described Dorsey thus: "He seldom touched a case until after indictment;…he was the greatest expert on hom[i]cide law and the law of evidence in the South; he was wholly incorrupt[i]ble…" DeWitt H. Roberts, "Anti-Semitism and the Leo M. Frank Case" (unpublished essay of the Anti-Defamation League, n.d., ca. 1953, SC-3576, American Jewish Archives, Cincinnati, OH), 17-18.

471 Oney, *ATDSR*, 145-46. See *AC*, July, 19, 1913, 2, for Smith's public statement about his role as Conley's attorney.

472 "William Smith Tells Why His Opinion Has Changed As to Guilt of Leo Frank," *AC,* Oct. 4, 1914.

473 "Frank Declared Innocent: Conley's Attorney Declares the Negro Guilty," *AI*, Oct. 8, 1914, 4; *NYT,* Oct. 4, 1914. "William Smith Tells Why His Opinion Has Changed as to Guilt of Leo Frank," *AC,* Oct. 4, 1914, 1: "Mr. Smith took pains to state to reporters that Conley had made no damaging admission, and that nothing the negro had secretly said had influenced his new opinion."

474 Pages 188-89.

475 Golden, *A Little Girl Is Dead,* 129. See also Dinnerstein, *Leo Frank Case*, 45, 47-48.

476 MANGUM, 68, 75, 76-77, 80, 82, 88, 92, 93-94. Also, for examples, "Jim Conley Tells an Amazing Story," *AJ*, Aug. 4, 1913, last ed., 1, 4, 5. Newspaper reports vary from the trial record on the phrasing. "Jim Conley Tells an Amazing Story," *AJ,* Aug. 4, 1913, reports that Conley answered, "I don't remember" or "I don't recollect."

477 "Third Man Brought Into Phagan Mystery By Frank's Evidence," *AC,* May 6, 1913. The second day of inquest is reported in *AC,* May 9, 1913. The coroner's inquest started on Wednesday, April 30th, and listed more witnesses (200) than those called for any previous Georgia inquest. The first session went until May 1, recessed for a two-day "cooling off" period, and resumed on May 5th with

testimony from Leo Frank, who was recalled to testify on Thursday, May 8th. Also, *AJ*, May 6, 1913, 11; *AJ*, May 9, 1913, 6.

478 According to a newspaper report, "In Frank's previous testimony he failed to mention several persons who were at his home when he said he was there Saturday night. But when he was questioned in regard to this point Thursday afternoon he gave their names at once." "Leo Frank is Again Quizzed By Coroner," *AG*, May 8, 1913, 1.

479 *AJ,* May 6, 1913, 11; *AJ,* May 9, 1913, 6.

480 *AG*, May 9, 1913, 2.

481 Letter from Rudolph Frank to Leo M. Frank, October 8, 1914, quoted in Brown, "When Middle-Class Ambition Met Southern Honor," 226.

482 Frey and Thompson, *The Silent*, 60; MANGUM, 128.

483 Golden, *A Little Girl Is Dead*, 227.

484 DeWitt H. Roberts, "Anti-Semitism and the Leo M. Frank Murder Case" (unpublished essay of the Anti-Defamation League, n.d., ca. 1953, SC-3576, American Jewish Archives, Cincinnati, OH), 5, also 12, 20, 24. Roberts was inaccurately quoted in Golden, *A Little Girl Is Dead*, 227.

485 Leonard Dinnerstein, "Leo M. Frank and the American Jewish Community," *American Jewish Archives Journal* 20, no. 2 (Nov. 1968): 123 n. 45; Edward E. Grusd, *B'nai B'rith: The Story of a Covenant* (New York: Appleton-Century, 1966); "1913-1920 ADL – In Retrospect," 2013, Anti-Defamation League Archive, http://archive.adl.org/ADLHistory/1913_1920.asp. Also, MANGUM, 128. See "Welcome Given to B'nai B'rith," *AC,* Mar. 30 1914, 1. A Jewish outsider did make note of the case, but not before sharing a glowing assessment of Atlanta in "B'nai B'rith Delegate Lauds Atlanta Spirit; Discusses Frank Case," *AC,* Mar. 30, 1914, 2:

> B. A. Banks, a B'nai B'rith delegate from Norfolk, Va., and a director of the Atlanta Orphans' home, talked entertainingly of this city last night. "I am amazed at your wonderful city," said Mr. Banks. "I had heard much of Atlanta, but the reality surpasses all my expectation. [This is] a charming and progressive city….In common with the sentiments of all my co-religionists, I am deeply solicitous that Leo Frank should have another and impartial trial, and I pray sincerely that he may be proven innocent of the heinous charge which hangs over him. It is something new under the sun for a Jew to commit a crime of this character, and my whole nature revolts at the thought of his guilt.

> Much, however, as I am concerned with the fate of Frank, I am still more so with the dignity and honor of my people and the cause of law and justice..."

486 "Leo M. Frank Again Heads B'nai B'rith," *AJ*, Sept. 24, 1913.

487 Menahem Mendel Beilis was tried and acquitted in 1913 for a "ritual murder" in Russia. French army officer Alfred Dreyfus was convicted of treason in 1894, for having communicated French military secrets to Germany.

488 Oney, "*ATDSR*: An Overview," 32: "[P]owerful Jews" spent in today's dollars "untold millions in an effort to overturn Frank's conviction."

489 Eric L. Goldstein, *The Price of Whiteness: Jews, Race, and American Identity* (Princeton: Princeton Univ. Press, 2006), 65-66.

490 Dinnerstein, *Leo Frank Case,* 91-92. See also Golden, *A Little Girl Is Dead*, 246-47.

491 According to the American Jewish Committee's *Annual Report*, Albert D. Lasker was a "member at large" in 1915. Also, the *American Hebrew*, July 1, 1921, 163, reported that Lasker "is a member of the American Jewish Committee." According to author Stephen Fox, "If the early twentieth century in advertising history can be described in a phrase, it would be: The Age of Lasker." Quoted on p. 85 of *The Rise of Advertising in the United States: A History of Innovation to 1960*, by Edd Applegate (Lanham, MD: Scarecrow Press, 2012). Also, Stephen Fox, *The Mirror Makers: A History of American Advertising and Its Creators* (New York: Morrow, 1984), 40.

492 Jeffrey L. Cruikshank and Arthur W. Schultz, *The Man Who Sold America: The Amazing (but True!) Story of Albert D. Lasker and the Creation of the Advertising Century* (Boston: Harvard Business Review Press, 2010), 136.

493 John Gunther, *Taken at the Flood: The Story of Albert D. Lasker* (New York: Harper, 1960), 5; Oney, *ATDSR*, 367, 375; Steve Oney, "Murder Trials and Media Sensationalism," *Nieman Reports,* Spring 2004, http://www.nieman.harvard.edu/reports/article/100884/Murder-Trials-and-Media-Sensationalism.aspx. Lasker also helped popularize a Spam knockoff by creating an ad for Armour's "Star Ham" in a can. In his autobiography Lasker wrote, "The Negro would say, 'the ham what am—Armour's.'" See Albert Davis Lasker, *The Lasker Story: As He Told It* (1963; repr., Lincolnwood, IL: NTC Business Books, 1987), 25; Bernard Postal and Lionel Koppman, *American Jewish Landmarks: A Travel Guide and History*, vol. 2 (New York, 1979), 263. Lasker made $45 million in

advertising and left $11.5 million when he died. See Gunther, *Taken at the Flood,* 4.

494 *NYT,* Feb. 29, 1916.

495 William Randolph Hearst owned the *Evening Journal* and the *Atlanta Georgian,* which covered the trial with a decidedly pro-Frank bias. Hearst called Arthur Brisbane "the greatest journalist of his day."

496 Lasker, interview, 286.

497 Cruikshank and Schultz, *The Man Who Sold America*, 131, 133; Lasker, interview, 3.

498 Cruikshank and Schultz, *The Man Who Sold America*, 132. Lasker is here following the Talmud, Pesachim 49b: "We do not give testimony in front of him [the Gentile]…we do not summons him to be a witness…and we do not accept testimony from him[.]

499 Read the reminiscences of Albert Lasker's wife, Mary Lasker, part 1 of interview session no. 3, dated October 26, 1962, page 87, at the "Notable New Yorkers" website of the Oral History Research Office of the Columbia University Libraries, http://www.columbia.edu/cu/lweb/digital/collections/nny/laskerm/transcripts/laskerm_1_3_87.html:

> Between '39 and '41 Albert [Lasker] had suggested that the name of the organization be changed from Birth Control to Planned Parenthood, as he thought it sounded more constructive and would meet less public opposition, and this indeed was done.… [W]hen I first knew him [Albert Lasker] I was very interested in raising money for the Planned Parenthood Federation and he talked to me about it and said he was interested and his sisters were, and what had I in mind, did I have any special project. I had indeed a project in mind: *to send a representative to some of the Southern states.* And he gave me $10,000 at once toward this project, of sending a representative to talk to the health commissioners of North Carolina and I think of South Carolina….Q: *You were interested in teaching some of the Negroes no doubt.* Lasker: Yes, in making birth control part of their public health programs, which was possible in the South, where it wasn't at all possible, for instance, in Connecticut or Massachusetts.

500 Gunther, *Taken at the Flood*, 30-31.

501 Oney, *ATDSR,* 365, 367, 375, 394, 395. Lasker, interview, 285: Lasker believes he spent "some $120,000," including

$80,000 of his own money and large sums ($40,000) from his father and Jewish philanthropist Julius Rosenwald. See Lasker to Louis Wiley, April 20, 1914, Harry Golden Papers, Charlotte-McKlenburg Library, Charlotte, NC. Also Oney, *ATDSR*, 676, note to p. 394. Also discussing expenses is Wilbert Cameron, Jr., "Anti-Semitism and the Leo Frank Case" (master's thesis, Univ. of Cincinnati, 1965), 164-65. Also, on Albert D. Lasker's general contributions, see Oney, *ATDSR*, 375, 377-78, 414, 445, 557; and the hiring of attorneys when needed (p. 421). Golden, *A Little Girl Is Dead,* 286: "Rosser's fee and all other fees and expenses were eventually paid in full with money provided by A.D. Lasker."

It should be noted here, that by contrast Hugh Dorsey received $50 in payment for his role as public prosecutor in the Frank case. See *AJ,* Oct. 31, 1913. Dorsey's official expenses placed his administration in a deficit of $330.25, "which he was compelled to pay from his own pocket." See *AJ,* Nov. 1, 1913; *AJ,* Nov. 5, 1913. See also *AJ,* May 10, 1913, 16; *AJ,* May 10, 1913, 1: "The city detectives, who are working sixteen hours a day on the case…have incurred considerable expense, which must come from their own pockets since they are allowed nothing but car fare by the city." Similarly, Prosecutor Dorsey was obliged to personally pay for any case that exceeded its budget. He was reimbursed in this case, but the policy itself is yet another way the wealthy escape criminal responsibility, by simply dragging a case out beyond the fixed government budget.

502 Oney, *ATDSR,* 367, 377-78; 375, 394, 421, 481, 557.

503 Frank himself uses the phrase in "Leo Frank Replies to Attack by Brown," *AI*, Jan. 14, 1915, 4; and in "Detective Chief Lanford Given Roasting by Frank," *AC*, Mar. 1, 1914; and "Counsel for Frank to Ask a Rehearing by Supreme Court," *AC*, Feb. 19, 1914, 1. In Christianity the Passion (from the Latin *pati* "to suffer") is the short final period in the life of Jesus subsequent to the Last Supper covering his visit to Jerusalem and leading to his execution by crucifixion, an event central to Christian belief. This word appears to have been strategically chosen, in that Blacks, the favorite historical targets of American prejudice, would never, ever use the word "passion" to describe the raw hatred of their tormentors.

504 Gunther, *Taken at the Flood*, 88. On page 6 Albert Lasker's biographers say the advertising giant and pioneer "failed spectacularly" in the Frank case. See Cruikshank and Schultz, *The Man Who Sold America.* "Truth on the March": *AJ,* Feb. 18, 1914, and Mar. 5, 1914; *NYT*, Mar. 6, 1914,

and Feb. 19, 1914; *AC,* Mar. 30, 1914. After exposing many false witnesses operating on behalf of Lasker's "Truth on the March" campaign, Prosecutor Hugh Dorsey cracked, "That was truth on the run." *AG,* May 4, 1914.

505 Frey and Thompson, *The Silent,* 59; Oney, *ATDSR,* 366; Daniel Oxman, "California Reactions to the Leo Frank Case," *Western States Jewish Historical Quarterly* 10, no. 3 (April 1978): 219. Also see Dinnerstein, "Leo M. Frank," 112-13; Dinnerstein, *Leo Frank Case*, 76.

506 Dinnerstein, *Leo Frank Case*, 63; Oxman, "California Reactions to the Leo Frank Case," 219; Oney, *ATDSR,* 366-67, 394-95; Yvonne D. Newsome, "A House Divided: Conflict and Cooperation in African American–Jewish Relations" (PhD diss., Northwestern Univ., 1991), 88.

507 Hertzberg, *Strangers*, 206; Golden, *A Little Girl Is Dead*, 246. Samuel Untermyer, of Guggenheimer, Untermeyer & Marshall, was president of the Anti-Nazi League to Champion Human Rights.

508 Oney, *ATDSR,* 346-47; Morton Rosenstock, *Louis Marshall, Defender of Jewish Rights* (Detroit: Wayne State Univ. Press, 1965), 27, 40, 208; Charles Reznikoff, ed., *Louis Marshall, Champion of Liberty: Selected Papers and Addresses,* vol. 1 (Philadelphia: Jewish Publication Society of America, 1957), 392-93.

509 Melnick, *Black–Jewish Relations*, 130; Harold Cruse, *Plural But Equal: A Critical Study of Blacks and Minorities and America's Plural Society* (New York: William Morrow, 1987), 119.

510 Reznikoff, *Louis Marshall*, 389-90; "Ku Klux Klan," *Universal Jewish Encyclopedia*, 6:481. Amazingly, the *Universal Jewish Encyclopedia* claims that Marshall "stood out for his denunciation" of the Klan. Moorfield Storey, then the NAACP's white president, personally invited Marshall to join the NAACP executive board. At first Marshall declined, but he later replied on November 30, 1923:

> ….I shall be very glad to consent to serve. I agree with you that, now that Ku Klux Klan is sowing the seeds of discord throughout the country, it is the duty of those who believe in the maintenance of America's best traditions to unite in counteracting that evil influence.

511 Rosenstock, *Louis Marshall,* 210-11; M. M. Silver, *Louis Marshall and the Rise of Jewish Ethnicity in America: A Biography* (Syracuse: Syracuse Univ. Press, 2013), 463-64. This is not the first time the inaction of the American

Jewish Committee under Marshall undermined Black interests. In 1914, the AJC refused to fight Woodrow Wilson's wholesale racial cleansing of Blacks from United States government jobs, and further supported Wilson's policy for unrestricted East European immigration (even while dark-skinned immigrants faced heavy restrictions), which was perceived by many Blacks as yet another threat to their diminishing employment opportunities. See Isabel Boiko Price, "Black Response to Anti-Semitism: Negroes and Jews in New York, 1880 to World War II" (PhD diss., Univ. of New Mexico, 1973), 32-33. Marshall did, however, come to the support of Catholics when their parochial schools in some states were declared illegal. See Oscar Handlin and Mary F. Handlin, "The Acquisition of Political and Social Rights by the Jews in the United States," *American Jewish Yearbook,* vol. 56 (New York: American Jewish Committee, 1955), 83.

It is noteworthy that the original Ku Klux Klan was financed by a Jew, Judah P. Benjamin, and had many Jewish members and supporters. See *The Secret Relationship*, 2:85, 401-6, 416-29.

512 Marshall held many posts in the Jewish world, including chairman of the Jewish Theological Seminary of America Board of Directors; president of Congregation Emanu-El of New York; founder and president of the American Jewish Committee; and vice president of the American Jewish Congress.

513 Louis Marshall, of the Wall St. law firm Guggenheimer, Untermeyer & Marshall, in a letter to Judge Warren W. Foster, April 12, 1912, reprinted in Harry Hamilton Laughlin, *Eugenical Sterilization in the United States* (Chicago: Psychopathic Laboratory of the Municipal Court of Chicago, 1922), 334-36. See where Marshall is a legal advisor to the Eugenics Record Office, in its Study Number One of the Committee on Sterilization, *BULLETIN No. 10A: Report of the Committee to Study and to Report on the Best Practical Means of Cutting Off the Defective Germ-Plasm in the American Population, I. The Scope of the Committee's Work* (Cold Spring Harbor, Long Island, New York, February, 1914), 2 and 5, and 17ff for their definitions and classifications of "degeneracy." See also page 2 and the statement by Louis Marshall on pp. 73-75 of the Eugenics Record Office's *BULLETIN No. 10B: Report of the Committee to Study and to Report on the Best Practical Means of Cutting Off the Defective Germ-Plasm in the American Population, II. The Legal, Legislative and Administrative Aspects of Sterilization* (Cold Spring Harbor, Long Island, New York,

February, 1914). Also, Edwin Black, *War Against the Weak: Eugenics and America's Campaign to Create a Master Race* (New York: Four Walls Eight Windows, 2003), 57, 59-61.

514 Eugenics Record Office, *BULLETIN No. 10A: Report of the Committee to Study and to Report on the Best Practical Means of Cutting Off the Defective Germ-Plasm in the American Population* (1914), 9. Ultimately, "eugenics practitioners coercively sterilized some 60,000 Americans, barred the marriage of thousands, forcibly segregated thousands in 'colonies,'" and persecuted untold numbers. Before World War II, "nearly half of coercive sterilizations were done in California, and even after the war, the state accounted for a third of all such surgeries." See Edwin Black, "Eugenics and the Nazis—the California Connection," November 9, 2003, http://www.sfgate.com/opinion/article/Eugenics-and-the-Nazis-the-California-2549771.php.

515 Reznikoff, *Louis Marshall*, 300; Hertzberg, *Strangers*, 207; Hertzberg, "Southern Jews," 21.

516 See Cheryl Lynn Greenberg, *Troubling the Waters: Black-Jewish Relations in the American Century* (Princeton: Princeton Univ. Press, 2006), 61, in which Greenberg points out that the NAACP *unsuccessfully* attempted to get Jewish organizational support for the Costigan-Wagner anti-lynching bill in 1934, garnering a donation of just $25 from the American Jewish Congress and $100 from the American Jewish Committee—far short of the requested $1,000. This, despite the fact that it was estimated that in the 1940s, Jews "raised close to one billion dollars in voluntary contributions for domestic and overseas welfare needs." Nathan Reich, "The Role of the Jews in the American Economy," in *YIVO Annual of Jewish Social Science* (New York, 1953), 5:203.

517 Reznikoff, *Louis Marshall*, 317. Of course, Leo Frank himself had been an open and eager practitioner of Jim Crow.

518 Eric L. Goldstein, *The Price of Whiteness: Jews, Race, and American Identity* (Princeton: Princeton Univ. Press, 2006), 65.

519 Melnick, *Black–Jewish Relations*, 100.

520 Stuart Allen Rockoff, "Jewish Racial Identity in Pittsburgh and Atlanta, 1890-1930" (PhD diss., Univ. of Texas at Austin, 2000), 279.

521 Dinnerstein, *Leo Frank Case,* 91; Lasker, interview, 4. Wilbert Cameron, Jr., says simply that the *New York Times* "was part of the Frank defense." See his "Anti-Semitism and the Leo Frank Case," 151; Oney, *ATDSR,* 373, 457; Susan E. Tifft and Alex S. Jones, *The Trust: The Private and*

Powerful Family Behind the New York Times (Boston: Little, Brown, 1999), 92-96.

522 Lasker, interview, 5.

523 Cruikshank and Schultz, *The Man Who Sold America*, 128; Lasker, interview, 5. Lasker also secured the involvement of *Collier's* magazine, which had a weekly circulation of one million. He considered the popular and influential magazine to be as important as the *New York Times* in the Frank effort: "If I could get those two to crusade I didn't have to take care of any other thing…" Cruikshank and Schultz, *The Man Who Sold America*, 132-33 (emphasis ours). According to Steve Oney, "Ochs had regarded his role in the Frank affair as that of a crusader…" See "Murder Trials and Media Sensationalism," *Nieman Reports*, Spring 2004; and "A Distant Mirror: The Leo Frank Lynching," *New Republic*, August 16, 2015, http://www.newrepublic.com/article/122542/distant-mirror-leo-frank-lynching.

524 One of Frank's factory managers testified that he used these methods on the Black employees of the National Pencil Company. N.V. Darley testified: "I kicked him when I caught him loafing, and sometimes I would take a piece of board to him…" (*Brief*, 75, 64). The day watchman, E.F. Holloway, testified: "Sometimes I would kick him to make him go on to his work" (*Brief*, 77).

525 *NYT,* June 9, 1901.

526 "The 'Old Mammy' Market," *NYT*, Jan. 9, 1908, 8. It should be here noted that the NAACP board chairman, Oswald Garrison Villard, advocated the same idea to an audience of Black business leaders. He asked: "Is not the Colored race recreant to its duty if it fails to produce thousands of mammies…" See Oswald Garrison Villard, "The Negro and the Domestic Problem," *Alexander's Magazine*, Nov. 15, 1905, 8-9.

527 Tifft and Jones, *The Trust*, 92-96, 816.

528 "'NEGRO' WITH A CAPITAL 'N,'" *NYT*, Mar. 7, 1930, 20. National magazines had long ago made the change. See "CAPITAL 'N' NEGRO WIDENS," *NYT*, Mar. 9, 1930, 21.

529 Steven Bloom, "Interactions Between Blacks and Jews in New York City, 1900-1930, As Reflected in the Black Press" (PhD diss., New York Univ., 1973), 30, 60.

530 For example, *NYT*, Aug. 5, 1913, 2.

531 Oney, *ATDSR,* 373-74. Oney (pp. 426, 457) calls it "the paper's unremitting partisanship." "Ochs's sheet was more interested in disseminating propaganda than in practicing journalism." The *Times* "presented a shrill and one-sided picture of the facts."

532 *NYT,* Feb. 18, 1914, 3. The editors capitalized *English* but

not *negro*. *NYT,* Mar. 11, 1914, 3; *NYT,* Dec. 27, 1914, 12; *NYT,* Mar. 13, 1914, 3, are just a few examples. See also "'Negro' With a Big 'N'," *New York Age*, Aug. 17, 1918, reprinted in *The Selected Writings of James Weldon Johnson,* vol. 1, *The New York Age Editorials, 1914–1923,* ed. Sondra Kathryn Wilson (New York: Oxford Univ. Press, 1995), 36.

533 Variously, "Frank's Last Hope," *NYT*, Nov. 16, 1914, 8; *NYT,* Nov. 25, 1914, 10; *NYT*, Dec. 14, 1914, 4; Oney, *ATDSR,* 454; *NYT,* Jan. 10, 1915, 48; *NYT,* Feb. 23, 1915, 9; *NYT,* Dec. 27, 1914, 12; *NYT,* Dec. 6, 1914, E2.

534 Oney, *ATDSR*, 374. By definition, all Blacks under Jim Crow were "criminals" and subject to an entirely different set of laws because of their skin color alone. The only comparable system was that implemented and overseen by Adolf Hitler, and the apartheid systems of South Africa, Australia, and Israel.

535 *NYT*, Mar. 4, 1914, 2.

536 Morton Rosenstock, *Louis Marshall, Defender of Jewish Rights* (Detroit: Wayne State Univ. Press, 1965), 91; Bloom, "Interactions Between Blacks and Jews," 57; Oney, *ATDSR,* 373-74, 457; Dinnerstein, *Leo Frank Case*, 91-92; Robin L. Kahn, "Who is Guilty—Leo Frank or Georgia? Responses to the Leo M. Frank Case as Reported by *The New York Times*, 1913-1915," *Kalam* 2, no. 1 (Spring 1994): 18.

537 Oney, *ATDSR,* 395; "Haas in New York After the Cash," *Jeffersonian*, Sept. 30, 1915, 12.

538 *Annotated Penal Laws of Georgia* (1875).

539 "Frank Convicted by Public Clamor," *NYT,* Mar. 2, 1914, 3.

540 "Holds Murder Note Author Was Conley," letter to the editor, *NYT*, May 30, 1915, 14.

541 "Ask Certificate With Frank Appeal," letter to the editor, *NYT*, Dec. 21, 1914, 7.

542 *NYT,* Mar. 15, 1914, 10.

543 *NYT,* Nov. 30, 1914, 5; "New Trial Denied Leo Frank," *AC,* May 7, 1914, 1. That argument was made by none other than Louis Marshall, founder and president of the American Jewish Committee and Frank's appeals attorney. See *American Jewish Review* 4, no. 5 (Jan. 1915): 4. Also, "Dorsey Expected Back," *AC,* Oct. 14, 1913, 5. Also, according to attorney Reuben Arnold, "It is hard to believe a negro at any time…" See *AG*, Aug. 22, 1913, 7, col. 3.

544 Berry Benson, "Says His Analysis Vindicates Frank," *NYT*, Dec. 27, 1914, 12. Benson described the qualifications that made him a *New York Times* "expert" in the matter: "As the son of an owner of slaves till my 18th year, then as a

Confederate soldier more than four years, and since the war…employing negroes, I know somewhat of negro character and of negro manner of expression." See Berry Benson, *Five Arguments in the Frank Case* (Augusta, GA: privately printed, 1915), under section 1, n.p.

545 *NYT*, June 17, 1915, 1.

546 *NYT,* Mar. 15, 1914, 10.

547 It must be reiterated that there is no *reliable* way of ensuring the accuracy of any alleged quotation of any Black person. Scholars must rely on the truthfulness of the white journalists of that time, a quality that was, obviously, in short supply.

548 *NYT,* Dec. 4, 1914, 12.

549 *NYT*, Mar. 11, 1914, 3.

550 *NYT,* Nov. 28, 1914, 5. The theme of Jews as "God's chosen" is the source of the philo-Semitism Jews found in the slavery-based South. That Blacks are the cursed Sons of Ham emerged from the Jewish Babylonian Talmud and is the root of the deep hatred faced by Blacks in the South and throughout America and the world. See *The Secret Relationship,* vols. 1 and 2.

551 *NYT,* Aug., 18, 1915, 3.

552 Oney, interviewed by Benyamin Cohen, "And Justice for All," JEWSWEEK, Oct. 11, 2003, retrieved June 28, 2006, http://www.jewsweek.com/. Also, Oney, *ATDSR,* 457, 577, 591.

553 Kahn, "Who is Guilty," 18.

554 See ibid., 22.

555 Frey and Thompson, *The Silent*, 63; Dinnerstein, *Leo Frank Case,* 116, 202 n. 20; *NYT,* Aug. 18, 1915, 3; Eugene Levy, "'Is the Jew a White Man?' Press Reaction to the Leo Frank Case, 1913-1915," *Phylon* 35, no. 2 (June 1974): 219; Hertzberg, *Strangers,* 207; Newsome, "A House Divided," 88; *Chicago Israelite,* July 24, 1915.

556 See examples of the coverage by the *American Israelite*, Jan. 21, 1915, 4; "The Case of Leo M. Frank," *AI*, Sept. 25, 1913, 4; Rabbi Max Heller, "The Frank Case," *AI,* Nov. 20, 1913, 4; "The Leo Frank Case," *AI,* Sept. 24, 1914, 7; "The Frank Case," *AI*, Oct. 22, 1914, 4; "The Frank Case," *AI*, Nov. 5, 1914, 4; Levy, "Is the Jew a White Man?'" 219. Isaac Mayer Wise was a seminal figure in the history of American Jews, having founded and organized Reform Judaism, the denomination that is today claimed by most American Jews. Wise expressed racist beliefs against Native Americans and against Blacks, both of whom he thought to be racially inferior. He trained and established many rabbis and assigned them to Southern synagogues in

the midst of slavery and Jim Crow. Wise also founded the *American Israelite*, which spread his racist notions far and wide. His sons Leo and Jonah took over the newspaper and carried on that racially bigoted tradition. Louis R. Harlan wrote that Jonah Wise's "only consistency was his racism." See his article "Booker T. Washington's Discovery of Jews," in *Region, Race, and Reconstruction*, eds. J. Morgan Kousser and James M. McPherson (New York*:* Oxford Univ. Press 1982), 276-79.

557 See *Jewish Daily Forward* editor Abraham Cahan's fondness for Frank, in Melnick, *Black–Jewish Relations,* 36.

558 Ab Cahan, "The Death of Leo Frank," editorial translated from the Yiddish by Chana Pollack, *Forward*, Aug. 18, 2015, http://forward.com/opinion/editorial/319266/the-death-of-leo-frank

559 Clive Webb, review of *Black–Jewish Relations on Trial: Leo Frank and Jim Conley in the New South,* by Jeffrey Melnick, *Journal of American History* 89, no. 1 (June 2002), 258: "The black press recognized the counterattack against Conley as an assault upon the reputation of all African-American males and responded with an impassioned defense." Theodore Rosengarten, "The Haunting Questions of a Murder and a Lynching," review of *ATDSR*, by Steve Oney, *NYT,* Dec. 19, 2003, E43.

560 "The Frank Case Again," *New York Age*, Oct. 29, 1914, reprinted in *The Selected Writings of James Weldon Johnson,* vol. 1, *The New York Age Editorials, 1914–1923,* ed. Sondra Kathryn Wilson (New York: Oxford Univ. Press, 1995), 55; Bloom, "Interactions Between Blacks and Jews," 59-60. Wrote Bloom: "Certainly three hundred years of Southern history seemed to back up Johnson's judgment." That there was virtually no anti-Semitism in the South is borne out by Jewish scholars and historians—see *The Secret Relationship*, 2:25-102 and passim.

561 "Henry Ford Recants," *CD*, July 16, 1927, A2; Bloom, "Interactions Between Blacks and Jews," 74.

562 Aug. 21, 1915.

563 "The Great Fuss Over Leo Frank," *CD*, June 26, 1915, 5.

564 See *NYT,* Sept. 13, 1915, 3; *NYT,* Aug. 18, 1915, 3. Watson was no different from most whites and Jews of his time in his negative beliefs about Blacks. Earlier in his career, however, he actually had publicly expressed belief in the right of Blacks to political equality, a position that found no takers among Southern Jews. See Woodward, *Tom Watson*, 220-21, and Dinnerstein, *Leo Frank Case,* 95-96. After the lynching of Leo Frank, Watson was charged by the *New York Times* with "fanning race hatred."

See *NYT,* Aug. 18, 1915, 3.

565 Sidney Sutherland, "The Mystery of the Pencil Factory," in *Ten Real Murder Mysteries—Never Solved!* (New York: G.P. Putnam's Sons, 1929).

566 *What Went Wrong? The Creation and Collapse of the Black-Jewish Alliance* (New York: Free Press, 1995), 64.

567 Golden, *A Little Girl Is Dead*, 216.

568 See Oney, *ATDSR,* 383; Woodward, *Tom Watson*, 437; and Dinnerstein, *Leo Frank Case*, 97. And this was nine days after the *Atlanta Journal* (Mar. 10, 1914, 8) published its editorial titled "Frank Should Have a New Trial." Author Steve Oney says that "through him [Watson] anti-Semitism indeed entered the case." If that is so, then all events prior to March of 1914—including the trial, the investigation, the media coverage, etc.—were anti-Semitism-free. See Oney, "*ATDSR*: An Overview," 32.

569 "The Frank Case: Does the State of Georgia Deserve This Nation-Wide Abuse?" *Jeffersonian,* Apr. 9, 1914, 1, 6-8; Tifft and Jones, *The Trust*, 95-96. See "Took Frank's Life," *NYT,* Aug. 18, 1915, 3; Steve Oney, quoted in Benyamin Cohen, "And Justice for All," Oct. 11, 2003, www.jewsweek.com.

570 Lasker, interview, 288.

571 Emphasis Watson's. "The Frank Case: When and Where Shall Rich Criminals be Tried?" *Jeffersonian*, Mar. 19, 1914, 1, 8; also quoted in *NYT*, Mar. 19, 1914, 1.

572 In addition to those articles referenced in this section, see for example, "A Demonstration of the Guilt of Leo Frank," *Jeffersonian*, Feb. 15, 1915; "Will Some of Leo Frank's Able Lawyers Debate the Case, in Public?" *Jeffersonian,* Apr. 29, 1915, 1, 8-10; "How Many More Trials in Supreme Courts Is Leo Frank to Have?" *Jeffersonian*, May 20, 1915, 1, 8-10; "Further Consideration of the Case of Leo Frank," *Jeffersonian*, June 3, 1915, 1-6; "Possibilities and Peculiarities of the Frank Case," *Jeffersonian,* June 10, 1915; "Slaton Misstates the Law, the Supreme Court Decisions, and the Evidence," *Jeffersonian,* July 1, 1915; "Aftermath of Slaton's Treachery in the Frank Case," *Jeffersonian,* July 8, 1915.

573 See *AC*, Mar. 18, 1914, which identifies Don C. Seitz, as manager of the *New York World*. Also, "Burns Confers with Leo M. Frank," *NYT*, Mar. 18, 1914, 5.

574 "The Frank Case: Does the State of Georgia Deserve the Nation-Wide Abuse?" *Jeffersonian,* Apr. 9, 1914, 1, 6-8; *Jeffersonian,* Apr. 23, 1914, 1, 9; Oney, *ATDSR,* 451, quotes *Jeffersonian*, Dec. 3, 1914, 1; *WM* 20, no. 3 (Jan. 1915):

152. For Louis Marshall's orchestration of the Southern press coverage of the Leo Frank case, see Reznikoff, *Louis Marshall*, 295-98.

575 *WM* 20, no. 3 (Jan. 1915): 158 (emphasis Watson's).

576 Oney, *ATDSR,* 452. Golden discusses Watson's racism, which in fact, mirrored the sentiments of most, if not all, Southern Jews, in *A Little Girl Is Dead,* 214-15. For white supremacist sentiments of American Jewry, see *The Secret Relationship*, vols. 1 and 2.

577 According to Oney, "American Jews spent in today's dollars untold millions in an attempt to exonerate the factory superintendent." Steve Oney, "The ADL and America's worst case of anti-Semitism," *Jewish Journal,* November 6, 2008, http://www.jewishjournal.com/nation/article/the_adl_and_americas_worst_case_of_anti_semitism_20081106/.

578 "The Celebrated Case of the State of Georgia vs. Leo Frank," *WM* 21, no. 4 (Aug. 1915). As earlier shown, the Jewish supporters of Leo Frank, especially those at the Ochs-owned *New York Times,* were no less vicious than Watson in their racist rhetoric against Black people. Also, Cameron, "Anti-Semitism and the Leo Frank Case," 80-81.

579 *Brief*, 10; "Clash Comes over Evidence of Detective John Starnes," *AC*, July 30, 1913, 2. *AG*, Apr. 29, 1913, home extra no. 5 ed., 2: "Frank, to a Georgian reporter, just before his arrest, said: '….I deeply regret the carelessness shown by the police department in not making a complete investigation as to finger prints and other evidence before a great throng of people were allowed to enter the place.'"

580 Thomas E. Watson, "The Official Record in the Case of Leo Frank, A Jew Pervert," *WM* 21, no. 5 (Sept. 1915): 260. The International Association of Chiefs of Police met in Washington on June 21, 1913, to discuss the effectiveness of fingerprint evidence and its usefulness to law enforcement. See "Fingerprints Called Arch Foe of Crooks," *AG,* June 22, 1913, 8A. Fingerprints were taken and analyzed, but no results were ever made public. See "Experts Are Here On Finger Prints," *AC,* May 22, 1913, 1.

581 Emphasis his. Thomas E. Watson, *Jeffersonian*, Jan. 11, 1917, 4.

582 Watson, *Jeffersonian*, Jan. 11, 1917, 4.

583 Emphasis Watson's. *Jeffersonian,* Sept. 2, 1915, 2.

584 Quotes compiled in "How The Jeffersonian Fanned Race Hatred," *NYT*, Aug. 18, 1915, 3.

585 See Lindemann, *The Jew Accused*, 233, 261-62; Dinnerstein, "Atlanta in the Progressive Era," 137.

586 Louis E. Schmier, "'No Jew Can Murder': Memories of

Tom Watson and the Lichtenstein Murder Case of 1901," *Georgia Historical Quarterly* 70, no. 3 (Fall 1986): 433, 436-55. See Frey and Thompson, *The Silent,* 126; Lindemann, *The Jew Accused*, 233.

587 *Jeffersonian*, Apr. 16, 1914, 9-10, 1, 5; *Jeffersonian,* Mar. 11, 1915, 10.

588 *Jeffersonian,* Dec. 19, 1912, 15.

589 *The Secret Relationship*, 2:130.

590 Charles Crowe, "Tom Watson, Populists, and Blacks Reconsidered," *Journal of Negro History* 55, no. 2 (Apr. 1970): 101. It should be noted that Watson had no hesitation at all in voicing his belief in full and complete white superiority and Black inferiority. For examples, see "Canada and the 'Color Line'," *Jeffersonian*, Apr. 6, 1911, 1:

> Without the aid of whites, negroes of Africa will never be other than savages….The white nations should adopt a settled policy on this grave question, and should adhere to it rigidly. In all affairs of government, THE WHITES, EXCLUSIVELY, SHOULD CONTROL. [Emphasis his]

Other of the many examples in the *Jeffersonian* include advocating "mob law" and lynching of Blacks. See Jan. 2, 1913, 4; May 15, 1913, 4-5; Feb. 12, 1914, 1, 8:

> Three typical negro bucks, enjoying their Sunday in a typical, nigger-buck way, soak themselves on the meanest of liquor, and at length prowl around seeking for typical nigger-buck prey, *an unprotected white woman.*

The *Jeffersonian* rails against "niggers" and "coons" in government: May 28, 1914, 1; June 18, 1914, 1, 8; July 2, 1914, 6; July 16, 1914, 1, 6, 10; July 23, 1914, 1, 10; July 30, 1914, 3; Aug. 6, 1914, 1, 6; Aug. 13, 1914, 7, 10; Aug. 20, 1914, 6, 8; Sept. 10, 1914, 5, 10; Oct. 8, 1914, 5; Dec. 3, 1914, 1, 4; Feb. 25, 1915, 12. The *Jeffersonian* advocates slavery: Jan. 16, 1913, 13; prints South Carolina governor Cole Blease's letter: "I care nothing for the criticisms of Cubans, mixed-breeds, negroes or negro lovers." Jan. 23, 1913, 12. Other examples of race hatred include Mar. 5, 1914, 7; Mar. 14, 1914, 7-8; Apr. 16, 1914, 1; Apr. 30, 1914, 6, 9; May 7, 1914, 4, 8.

591 *Jeffersonian*, Jan. 11, 1917, 6. Previously, Watson enjoyed the admiration of several powerful men who became backers of Leo Frank, including newspaper publisher William Hearst and his editorial writer Arthur Brisbane. See Oney, *ATDSR*, 39-40.

592 Woodward, *Tom Watson*, 220.

593 See *Jeffersonian*, Mar. 19, 1914; Lindemann, *The Jew*

Accused, 260-62; Moseley, "The Case of Leo M. Frank," 49; Woodward, *Tom Watson*, 437, 446, 449-50; *Jeffersonian*, Sept. 2, 1915, 1, 7: "we will meet the 'Leo Frank League' with a Gentile League, *if they provoke us much further*" and "*…another Ku Klux Klan may be organized to restore HOME RULE*." By the 1920s, Watson was proudly saying that he was regarded as "the King of the Ku Klux Klan." See Oney, *ATDSR,* 615; Andrew S. Rice, *The Ku Klux Klan in American Politics* (1962), 59-60; and Woodward, *Tom Watson*, 486. Also, Crowe, "Tom Watson."

594 *Jeffersonian*, Jan. 11, 1917.

595 Edgar Hutchinson Johnson, "The Leo Frank Case" (master's thesis, Florida State Univ., 1966), 81.

596 See *WM*, Sept. 1915, 253.

597 Harry Simonhoff, "Leo M. Frank, Martyr" in *Saga of American Jewry, 1865-1914* (New York: Arco, 1959), 372.

598 Bauman, "Factionalism and Ethnic Politics in Atlanta," 37.

599 Lasker, interview, 287; Cameron, "Anti-Semitism and the Leo Frank Case," 167-68.

600 Lasker, interview, 286.

601 Dinnerstein, *Leo Frank Case*, 96; Golden, *A Little Girl Is Dead*, 220-21, claims that the *Jeffersonian* circulation increased from 25,000 to 87,000 as a result of its Frank case coverage.

602 See Cahan's fondness for Frank, in Melnick, *Black–Jewish Relations*, 36. Jason Schulman, "The *Yahudim* and the Americans: The Leo Frank Affair as a Turning Point in Jewish-American History," *History Matters* (Spring 2007): 46. Also, "A Leader of Jews," *AC*, Aug. 4, 1913, 7. For more on local merchants and storekeepers who sought to profit from the trial, see Herbert Asbury, "Hearst Comes to Atlanta," *American Mercury*, Jan. 1926, 92.

603 "Burns Declares World Gets Better Every Day," *AJ*, Feb. 19, 1914, 18. See also "Counsel for Frank to Ask a Rehearing by Supreme Court," *AC*, Feb. 19, 1914, 1.

604 DeWitt H. Roberts, "Anti-Semitism and the Leo M. Frank Case" (unpublished essay of the Anti-Defamation League, n.d., ca. 1953, SC-3576, American Jewish Archives, Cincinnati, OH), 15.

605 For the circumstances of his hire see "Burns Takes a Hand in Frank's Behalf," *NYT*, Mar. 3, 1914; *AG*, Mar. 4, 1914.

606 "Burns Agency Quits The Phagan Case; Tobie Leaves Today," *AC*, May 27, 1913, 1, 2: "Chief Lanford and Harry Scott, of the Pinkertons, both say that they each unearthed evidence sufficient to convict the suspected superintendent." "Burns Man Quits Case," *AG*, May 27,

1913, 2:

> Tobie explained he believed Leo M. Frank was guilty of the Phagan murder and that the “certain features” [of the case] meant additional clinching evidence not yet published that will make Frank’s conviction certain.

See Tobie's uncannily accurate theory *without naming Frank* in "Burns Agent Outlines Phagan Theory," *AJ*, May 19, 1913, 1; "Burns' Investigator Outlines His Theory of Phagan Murder," *AG*, May 19, 1913, 1; "Women Declare Phagan Murder Must Be Solved," *AC*, May 20, 1913, 9. Curiously, author Steve Oney (*ATDSR*, 103-4, 112) does not mention Tobie's indictment of Frank.

607 "Scott Believes Conley Innocent, Asserts Lanford," *AC*, July 19, 1913, 1; *AG*, May 30, 1913, 2.

608 See *AC*, Feb. 19, 1914, 1, 2. See *NYT*, Mar. 18, 1914, 5; *AC*, Mar. 20, 1914, 1; *AC*, Mar. 19, 1914, 1, 2; *AC*, Mar. 16, 1914, 1, 2. See also Herbert Haas and Burns's trips to New York, in *AC*, Mar. 11, 1914, 1; *AC*, Mar. 25, 1914, 1; *AC*, Mar. 26, 1914, 3; *NYT*, Mar. 25, 1914, 5;"Detective Burns Goes to New York to Hunt Evidence," *AC*, Mar. 23, 1914, 1: "Detective William J. Burns and Leonard Haas are going to New York to investigate the same phase of the Frank case which Attorneys Luther Z. Rosser and Herbert J. Haas probed several weeks ago during their journey to the metropolis….[Rosser and Herbert Haas] have held frequent conferences with Burns since their return from New York."

609 "Luther Z. Rosser Holds Conference in New York Over Leo Frank's Case," *AC,* Mar. 4, 1914, 1. It was later revealed that Burns and Lasker had met privately with the convict at the Tower jail before Burns was employed.

610 Lasker, interview, 5. Later, in more apparent subterfuge, the well-known dentist Dr. B. Wildauer and fellow B'nai B'rith lodge member Milton Klein took credit for Burns's hire. See *AC*, Mar. 4, 1914, 2: "They are close friends to Leo Frank." Eugene J. Watts, "The Police in Atlanta, 1890-1905," *Journal of Southern History* 39, no. 2 (May 1973), 178: Wildauer was formerly the only Jew on the police force, and in 1903 he said a police commissioner "had offered to make him a detective if he would use his influence among the Jews against a certain mayoralty candidate."

611 Philip L. Fradkin, *The Great Earthquake and Firestorms of 1906: How San Francisco Nearly Destroyed Itself* (Berkeley: Univ. of California Press, 2005), 331.

612 *WM* 20, no. 3 (Jan. 1915): 152; "Gompers Attacks Burns: Labor Leader Gives Out Wickersham's Report On Jones Case," *NYT*, July 23, 1912, 18; William R. Hunt, *Front-Page Detective: William J. Burns and the Detective Profession, 1880-1930* (Bowling Green, OH: Bowling Green State Univ. Popular Press, 1990), 107-10; Cruikshank and Schultz, *The Man Who Sold America*, 135.

613 The Burns agency claimed to have 8,000 operatives stationed in every "city of prominence" in the U.S. and in Europe.

614 Dinnerstein, *Leo Frank Case*, 100; "Horrible Mistake in Case of Frank, States W. J. Burns," *AC,* May 1, 1914, 1, 3; *NYT,* Mar. 22 1914, 3: "There is no doubt," Burns said, "that the murder lies between the two men, Leo Frank and Jim Conley, the negro."

615 According to the *NYT,* Mar. 22 1914, 3, "These terms were not applied to members of the Atlanta Detective Department. Mr. Burns desires it understood that he approves of their zeal, as shown in the case on which he is engaged." Previously, in *AC,* Mar. 20, 1914, 2, William J. Burns had declared without qualification: "The average private detective is one of the most diabolical evils with which we have to contend."

616 *NYT,* Mar. 3, 1914, 1.

617 See for instance *NYT,* Mar. 28, 1914. Arthur Brisbane, the editor of the New York *Evening Journal* had in effect joined the Frank team: he secretly wrote to Burns *circa* Mar. 21, 1914, that "statements of fact or very strong statements of opinion as to the evidence from yourself would be most beneficial. The papers would publish, and the public would read with an open mind the written opinions of the world's greatest detective." Adding yet more unethical layers, he further counseled that a *New York Times* reporter could help Burns write the statements. See Adolph S. Ochs Papers, New York Times Company Records, Manuscripts and Archives Division, The New York Public Library.

618 *NYT*, Mar. 14, 1914, 2. Mrs. J.B. Simmons of Birmingham, Ala., quoted in *AJ*, Mar. 13, 1914, 1. Simmons was apparently encouraged to offer this account by a Mrs. Jake Cohen. Why didn't she tell the police? "I mentioned the occurrence at the supper table that night." But the eye-rolling *Journal* had to add, "Mrs. Simmons' recollection as to time is very hazy…" An F.F. Hammond submitted an affidavit in which he claimed he heard Mr. and Mrs. Cohen talk about the Frank case "constantly," but never heard Mrs. Cohen talk about a woman who had heard screams. The Simmons affidavit caused W.T. Tucker and I.V. Tucker, father and son, to come forth to say that when they left work nearby and while walking by the pencil factory, they heard screams coming from the second floor at 12:10 p.m. See *AJ*, May 1, 1914. Also *AC*, May 2, 1914, 2.

619 *AJ*, May 1, 1914, 7.

620 Oney, *ATDSR*, 396 ("darkies"); *NYT,* May 1, 1914, 5; *NYT,* Apr. 25, 1914, 9; *Jeffersonian*, Apr. 30, 1914, 9-10;

AG, Apr. 24, 1914; *AJ,* May 4, 1914; *AG,* Apr. 30, 1914; *AG,* Apr. 28, 1914. See also *NYT,* Jan. 29, 1915; *AC,* Apr. 30, 1914.

621 *AC,* Mar. 6, 1914. "Frank Pins Hope to Affidavit Signed by Mrs. Ethel Miller," *AJ,* Mar. 6, 1914.

622 "Evidence Implicating Conley," *NYT*, Apr. 25, 1914.

623 *NYT*, Mar. 2, 1914, 1. The low wages paid to these "little factory girls" and the huge sums of money pouring into the case made them easy targets for bribery. Many months after the trial, another girl conveniently claimed that Conley, whom she described as "a surly negro," once attempted to attack her. See the *NYT,* Mar. 14, 1914, 2; *NYT*, Mar. 2, 1914, 1. Also *AJ,* Mar. 2, 1914; *AJ,* Mar. 14, 1914.

624 "The Celebrated Case of the State of Georgia vs. Leo Frank," *WM* 21, no. 4 (Aug. 1915): 194.

625 "Says Love Letters Written By Conley Prove Him Guilty," *AC*, Apr. 26, 1914, 1.

626 *NYT,* Apr. 27, 1914, 9; *NYT,* Feb. 18, 1914, 3. In fact, "perversion" is not the name of a crime (that is, it is not a legal category) and was entirely a matter of public image. Frank was charged with and convicted of murder. Before his death from cancer in 1914, Judge Roan discussed with his pastor the strong impression that the testimony about Frank's sexual life influenced his belief in Frank's guilt. Thomas Watson interviewed the pastor in *Watson's Magazine*, Aug. 1915, 235.

627 "Frank Should Have a New Trial Says Burns," *AI*, Apr. 9, 1914, 5. "Whether Leo Frank is guilty or someone else," Burns said, "The man who killed Mary Phagan is a pervert of the rankest type, and I will reveal him in my report." See *AC,* Apr. 22, 1914, 9. Also, in another *AC* article, dated Apr. 22, 1914, 9: "[Burns] did state that his report would show whether the murderer is a white man or a negro, and will show if Leo Frank is guilty. 'The crime is typical of a pervert,' declared Burns, 'and my report will also show that Leo Frank is not a pervert.'"

628 In fact, the police had pegged the crime as a "negro crime" before Frank was arrested. See "Arrested as Girl's Slayer," *AG,* Apr. 28, 1913, 2: "The theory that the crime was the work of a negro held full sway and was assiduously followed by detectives until Sunday afternoon." Oney, *ATDSR,* 32; Golden, *A Little Girl Is Dead*, 116.

629 Stuart Allen Rockoff, "Jewish Racial Identity in Pittsburgh and Atlanta, 1890-1930" (PhD diss., Univ. of Texas at Austin, 2000), 275.

630 "Conley Notes Show Guilt, Says Burns," *NYT*, Apr. 27,

1914, 9; "Sure Conley Slew Others: Burns, Besides Clearing Frank, Aims to Fix 20 Ripper Crimes on Negro," **NYT,** Apr. 28, 1914, 10.

631 Steve Fennessy, "Atlanta's Jack the Ripper: Did a serial killer murder 20 women a century ago?" Creative Loafing Atlanta, Oct. 26, 2005, http://clatl.com/atlanta/atlantas-jack-the-ripper/Content?oid=1257657.

632 *AJ,* Apr. 8, 1914.

633 "Conley Notes Show Guilt, Says Burns," *NYT*, Apr. 27, 1914, 9.

634 *AJ*, Aug. 22, 1913, 10; *AG,* Aug. 22, 1913, extra ed., 5; *NYT*, May 7, 1914, 1, 3; *AJ,* May 6, 1914; *NYT,* Apr. 27, 1914, 9.

635 Oney, *ATDSR,* 496. That lawyer was William Schley Howard, who was hired by Albert Lasker. See *AC,* June 1, 1915; Oney, *ATDSR,* 481, 484.

636 Lasker, interview. See also the memoir of former governor Nathaniel E. Harris, *Autobiography: The Story of An Old Man's Life with Reminiscences of Seventy-Five Years* (Macon GA: J. W. Burke, 1925), 366-67:

> While the doctor was washing the wound [Leo] Frank coughed, and I asked the doctor immediately, with a good deal of sympathy in my voice: "Won't that wound attack his lungs before it heals?" When I asked this, Frank laughed a queer sort of laugh; a laugh that showed, at least to me, a hard, careless heart, and the doubt, which I had about his guilt was lessened greatly as I heard the laugh and looked into his face. I could not help the impression.

The visit is covered by the *American Israelite*, July 29, 1915, 6.

637 Albert D. Lasker, interview by Boyden Sparkes, transcript, 1937, Albert D. Lasker Collection, Charles Deering McCormick Library of Special Collections, Northwestern Univ. Library, Evanston, Illinois. Sparkes writes that "all the men take a violent dislike to him [Leo Frank]."

638 A.D. Lasker to Herbert J. Haas, April 20, 1914.

639 *AC,* Apr. 25, 1914, 3; *AC,* Apr. 26, 1914, 1, 3; "Detective Burns Says Notes Written By Jim Conley Prove Him Pervert and Murderer," *AJ*, Apr. 26, 1914, 7; *NYT,* Apr. 27, 1914, 9.

640 *NYT,* Apr. 27, 1914, 9. Prosecutor Hugh Dorsey maintained that the letters "were obtained by fraud." See *NYT,* May 17, 1915, 6. Dinnerstein writes (*The Leo Frank Case*, 103) without any proof that "it was later shown that

Conley had written the letters." The original documents are housed at the Georgia State Archives. Anna Carter said the two or three letters from Conley had no vulgarity, in *AJ*, May 5, 1914, 2. Both Carter and Conley swore "their letters had been changed, and that the unprintable filth put in them, had been *forged*." *WM*, Sept. 1915, 289 (italics Watson's). See "Frank and Conley Will Not Testify," *AC,* June 3, 1915, 1: "He [Conley] denied authorship of the Annie Maude Carter love letters, asserting that they had been written by one of the jail trusties."

641 *NYT,* Dec. 20, 1914, SM9.

642 "Frank Again Pleads for a 'Square Deal'," *AJ*, Apr. 28, 1914, 4.

643 "Says Love Letters Written By Conley Prove Him Guilty," *AC*, Apr. 26, 1914, 1.

644 "Return of Negress Ordered by Judge Monday Morning," *AC,* May 5, 1914, 1; "Burns to Answer Contempt Charge," *AC*, May 10, 1914, D2; "Finds Burns in Contempt," *NYT*, May 27, 1914.

645 Conley denied writing the letters. See *AC,* May 2, 1914, 9; *NYT*, May 5, 1914, 4. "Conley Denies Writing Carter Woman Notes," *AJ,* June 2, 1914; "Did Not Confess To Girl's Murder, Says Jim Conley," *AC,* Apr. 25, 1914. *AC,* June 3, 1915, 1: Conley "denied authorship of the Annie Maude Carter love letters, asserting that they had been written by one of the jail trusties." Other testimony showed that Carter "had tried to 'pick' Conley, and that he had firmly maintained that Leo Frank was the murderer." See *AC,* May 5, 1914, 1, 10. See also *NYT,* May 5, 1914, in which Carter is said to have told relatives that "she is working with the Burns Detective Agency" and that she was employed "to frame up" Conley.

Reuben Arnold called the forged letters "unutterably vile." See *NYT,* May 7, 1914, 3. See "Annie Maud [sic] Carter Convicted as Robber," *AC,* July 23, 1914, 5. Carter said the two or three letters from Conley had no vulgarity, in *AJ*, May 5, 1914, 2. For references to Carter letters and Conley, see also "Return of Negress Ordered by Judge Monday Morning," *AC,* May 5, 1914, 1, 10; "New Trial Denied Leo Frank," *AC,* May 7, 1914, 1, 4; "Conley Confession Witness is Called," *AC,* May 9, 1914, 1; "Says Love Letters Written by Conley Prove Him Guilty," *AC,* Apr. 26, 1914, 1, 3; "Burns To Answer Contempt Charge," *AC,* May 10, 1914, D2.

646 *AC,* May 10, 1914, D2. George Gordon had also represented another Black woman implicated in the Leo Frank case—the cook in the Frank family household, Minola McKnight. Carter's other Haas-hired attorney,

Tillou Von Nunes, of Atlanta, attempted to redeem the plot to reporters after the court hearing and related hearsay dialogue between Carter and Conley, in which Von Nunes claimed Conley confessed and then retracted. None of this, of course, came from either Carter or Conley; nor did the *Constitution* reporter even attempt to verify the alleged dialogue attributed to Carter and Conley.

647 "May Call Burns Before Grand Jury," *NYT*, May 6, 1914, 3; *AJ,* May 5, 1914.

648 "Burns and Lehon are Summoned on Contempt Charge," *AJ*, May 9, 1914; *Jeffersonian*, July 22, 1915, 7.

649 Affidavit of Annie Maude Carter, Sworn to April 23, 1914 by Notary Public, Fulton County, Georgia, J.O. Knight; *AC*, Apr. 25, 1914, 1; "Evidence implicating Conley," *NYT*, Apr. 25, 1914, 8.

650 "Burns Hampered, He Tells Court," *NYT*, May 3, 1914, C5. Also involved in the Carter letter scheme was Jimmy Wrenn, an associate of a private detective for Leo Frank's counsel and the brother of George Wrenn, a convicted diamond thief at the time. See "Dorsey Calls C.W. Burke and Other Investigators for Leo Frank to Court," *AC*, May 3, 1914, 16.

651 Leo Frank had just turned 30 on April 17.

652 *AJ,* May 5, 1914, 4; *NYT*, May 6, 1914.

653 "Burns's Active Career," *NYT*, Apr. 24, 1911, 2.

654 *AC*, May 2, 1914, 9; "May Call Burns Before Grand Jury," *NYT*, May 6, 1914; "Detective William J. Burns May Be Placed Under Bond As Witness for Grand Jury," *AC*, May 6, 1914, 1; *AJ*, May 5, 1914.

655 Emphasis ours. See Melnick, *Black–Jewish Relations,* 61. The fact is that many Blacks had been lynched in the state for alleged relations with white women, none known to be with underage girls. If Frank were lynched solely for his sexual indiscretions, charges he and his lawyers conceded in open court, then his lynching is yet unremarkable—unjust, but unremarkable. Only Frank's whiteness *together with his Jewishness* raised the case to the status of notable lynching. As the leader of the most prominent organization of exclusively Jewish men, Frank and his B'nai B'rith did nothing as hundreds of Black people were being lynched all around them.

656 Frank's supporters are indeed consistent in their racism. Carter's original affidavit is still held as "strong evidence" of Conley's guilt. See for example Melnick, *Black–Jewish Relations,* 105-6; Dinnerstein, *Leo Frank Case*, 102-3; Frey and Thompson, *The Silent,* 26. See also the pamphlet by Berry Benson, *Five Arguments In The Frank Case*, (Augusta,

GA: privately printed, 1915), sect. 1.

657 The original handwritten so-called Carter Letters are striking in that they contain hardly any of the rudimentary grammatical errors in the "murder notes." This suggests that either Conley used his time in jail to develop his grammar skills or the "letters" were yet another Leo Frank team felony of forgery. Copies are available, as are the typewritten transcriptions of them, in the papers of Harry Golden, Charlotte-McKlenburg Library, Charlotte, NC.

658 *AJ,* May 1, 1914; *AC,* May 1, 1914. Defense attorney Luther Rosser discusses the devastation of the perversion charge to Leo Frank, in *AG*, Oct. 29, 1913. See also Reznikoff, *Louis Marshall,* 298.

659 According to Oscar Pappenheimer (*Brief*, 126), he was a stockholder and former member of the Board of Directors of the National Pencil Company and received weekly reports from Frank since March 1910. *Brief*, 198, and Defendant's Exhibit 46. Carter detailed the plot in which she was asked to poison James Conley, in *AJ*, May 5, 1914, 2. Also *AC*, May 6, 1914, 1, 5, mentions the poison plot against Conley. *NYT*, May 6, 1914, 3. In their books Steve Oney, Jeffrey Melnick, Leonard Dinnerstein, and Harry Golden do not mention this poison plot.

660 "May Call Burns Before Grand Jury," *NYT*, May 6, 1914, 3.

661 Leo Frank issued a lengthy statement trumpeting Burns's "revelation," almost scolding Atlantans for having "eagerly" taken the word of "a vile negro" over his own. Within the first paragraph, Frank makes repeated, and apparently subconscious, reference to the method he and his team had intended to use to eliminate James Conley, three times using the word "poison."

> To the people of Atlanta: I make this appeal to your fairness. It was the horrible charge that I was a pervert that *poisoned* your minds….It is this charge that has *poisoned* and still *poisons* the minds of the public against me and denies me the commonest rights of a human being. [Emphasis ours]
>
> *NYT*, Apr. 27, 1914, 9.

662 "New Trial Denied Leo Frank," *AC*, May 7, 1914, 1; "Perjury Charges in Frank's Case Will Be Ordered Probed," *AJ*, May 7, 1914, 1.

663 Oney, *ATDSR,* 396 ("darkies"); "Dan Lehon, Arthur Thurman and C.C. Tedder Are Given Their Freedom After Long Trial," *AC,* Feb. 1, 1915, 1: "The prosecution of Lehon, Tedder and Thurman grew out of an affidavit signed by Rev. C. B. Ragsdale to the effect that he had

heard Jim Conley confess…" Arthur Thurman was Ragsdale's lawyer in other matters, knew of his financial woes, and "influenced" him to get involved with the Frank operation. See also *NYT*, Apr. 25, 1914, 8; May 1, 1914, 5; *AC,* Apr. 30, 1914, 1, 5; May 1, 1914, 1, 3; *AG,* Apr. 24, 1914. Also, on the bribery committed by Burns and his agents, see "Ragsdale Alleges an Offer of $200," *NYT*, May 1, 1914, 5; Cruikshank and Schultz, *The Man Who Sold America*, 136-37. Also, "Ragsdale Swears To Perjury Plot; Burns Agents, Minister Testifies, Paid Him $200 for Making False Frank Affidavit…His Mind Hazy After Drinking in Thurman's Office," *NYT*, Jan. 29, 1915, 17. Even James Conley was called to testify in the case, denying under oath that he ever confessed to the murder of Mary Phagan. "Large Sums Paid to Burns Agency, Haas Tells Court," *AC*, Jan. 30, 1915, 1.

664 Hertzberg, *Strangers*, 208; Oney, *ATDSR,* 396, 398; "Return of Negress Ordered by Judge," *AC,* May 5, 1914, 10; "Ragsdale Resigns as Pastor of Church," *AC*, Apr. 29, 1914, 11; "Ragsdale Alleges An Offer of $200," *NYT*, May 1, 1914, 5; *AC,* Jan. 28, 1915, 2. The relative value of $200 (1914) is $4,890.00 in today's dollars.

665 "W. J. Burns and Dan Lehon Summoned by Solicitor Dorsey To the Frank Retrial Hearing," *AC*, May 2, 1914, 1, 2; *AC,* May 5, 1914, 10. See also *NYT*, May 6, 1914. Rabbi Marx is allowed to publish his own defense in *AJ*, May 6, 1914, 3.

666 *NYT,* May 5, 1914, 4; *Chicago Daily Tribune*, May 5, 1914, 8; Oney, *ATDSR,* 411. Haas was obviously the funnel for Lasker's cash infusions. See *AC*, May 5, 1914. Lasker is said to have put $2 million (in today's money) into the effort to exonerate Frank. Steve Oney, "The Press and the Frank Case," in *Seeking Justice: The Leo Frank Case Revisited* (Atlanta, GA: William Breman Jewish Heritage Museum, 2008), 15. Dorsey explores the payments to Burns/Lasker operatives in *AJ,* May 4, 1914.

667 Thomas E. Watson, "The Official Record in the Case of Leo Frank, A Jew Pervert," *WM* 21, no. 5 (Sept. 1915): 286; "The Frank Case; John M. Slaton; A Forgery or Two; and a Hidden Mesh-Bag," *Jeffersonian,* July 22, 1915, 1, 7-8; "The State *versus* John M. Slaton: Indictment for Treason," *Jeffersonian*, Sept. 23, 1915.

668 "Burns to Answer Contempt Charge," *AC,* May 10, 1914, D2; "Lehon Contempt Trial Up Today," *AC,* May 19, 1914, 1, 5; "State Cases Are Planned Against Burns Operators," *AC,* May 23, 1914, 1, 2; "Our Record Clean, Asserts Dan Lehon," May 24, 1914, 6; "Council Revokes License of

Burns," *AC,* May 26, 1914, 1; "Lehon is Fined $100 and Costs and Bound Over," *AC,* May 27, 1914, 1, 3; "Three Burns Aids Fined and Bound Over," *AC,* May 28, 1914, 1.

669 Indicted were W.J. Burns, Dan Lehon, Jimmy Wrenn, W.W. Rogers, W.D. MacWorth, L.P. Whitfield, R.L. Barber, L.P. Eubanks, Carleton C. Tedder, and George Wrenn. "A half dozen others" were unnamed.

670 "Burns to Answer Contempt Charge," *AC,* May 10, 1914, D2; *NYT,* May 18, 1914, 4. Burns's partner Dan Lehon was expelled from the Chicago Police Department for bribery and unethical conduct. See *Jeffersonian*, May 21, 1914, 3. The National Association of Police Chiefs revoked Burns's membership. See *NYT,* June 20, 1914, 18; *NYT*, Dec. 20, 1914, SM9; Oney, *ATDSR,* 420; *Jeffersonian*, June 25, 1914, 10.

671 "The Frank Case and Detective Burns," *AI*, June 25, 1914, 4; Oney, *ATDSR,* 408; *AC,* May 3, 1914, 16.

672 "New Trial Denied Leo Frank," *AC*, May 7, 1914, 4, and *NYT,* May 7, 1914, 3. Frank's lawyers ultimately abandoned the "perversion" charge against Conley. Said Arnold in court, "Conley isn't a pervert." See *AJ,* May 6, 1914, 3; *AC,* May 7, 1914, 4. But that didn't stop Governor John M. Slaton and a long list of Frank partisans from continuing to repeat the false charge against Conley. It should be noted that the only testimony presented under oath about anyone's sexual behavior was the official testimony about Leo Frank, by multiple witnesses, none of whom were challenged by Frank's defense. Nor did Frank's attorneys in their lengthy cross-examination of Conley charge him with any such behavior.

673 "William Jackass Burns, at Another Angle," *Jeffersonian*, May 7, 1914, 9. On the term "make water," consider Oney's take (*ATDSR,* 432-33):

> Consider the phrase "make water," which appeared in the note jotted on the company order sheet. Black vernacular for the verb "to urinate," the locution had struck the couple [Mr. and Mrs. William Smith] as foreign to anything Leo Frank could have said. As Smith would later write: "It may be that living in the South all my life, I am unable to speak authoritatively, but I venture the assertion that the term 'make water' is found a thousand times more often in the language of Southern negroes than in [that] of white Cornell alumni."

Here, of course, Thomas E. Watson, an educated

white Southerner, is using the expression, believing his all-white audience (of Leo Frank's class and sensibilities) would absolutely understand what he meant.

674 Marshall had harsh words for Frank's Atlanta attorneys as well. Oney, *ATDSR,* 419-20, 451.

675 Oney, *ATDSR,* 410. Most of Lasker's funds went to Burns: ibid., 394. Cameron, "Anti-Semitism and the Leo Frank Case," 154: "[Burns's] investigation hurt Frank's cause as much as Watson's entry into the case." Wilbert Cameron is among those writers who admit to Burns's chicanery and incompetence but accept his corrupted evidence—the Annie Maud Carter letters—as authentic (pp. 163, 155).

676 *WM*, Sept. 1915, 290. By May of 1914 authorities had charged Burns and several of his operatives with multiple crimes. They included Dan S. Lehon, southern manager of the Burns National Detective Agency; C. E. Sears, Atlanta branch manager; and operatives L. P. Whitfield, W. D. MacWorth, W. W. (Boots) Rogers, C. C. Tedder. Bond for Lehon, Whitfield, MacWorth, and Rogers was paid by Leonard Haas and Milton Klein, both members of the Leo Frank legal team. See "Judge Hill Postpones Burns and Lehon Trial," *AJ*, May 23, 1914, 1.

677 *AJ,* May 18, 1914. Hill ordered an investigation of the apparently rampant bribery, forgery, perjury, corruption, invention and planting of evidence, and general obstruction of justice on the part of Leo Frank's defense. At least five Burns agents were charged with subornation of perjury. *AJ,* May 22, 1914; *AJ*, May 24, 1914. Also, *NYT*, May 23, 1914.

678 Lasker, interview, 5. It must be emphatically noted that neither Lasker nor Frank partisans have ever produced convincing evidence of "perjured stuff" from "the other side."

679 Lasker to Ochs, March 12, 1914, Box 12, Folder 5, New York Times Company Records, Adolph S. Ochs Papers, Manuscripts and Archives Division, The New York Public Library (hereafter cited as Ochs Papers).

680 "Burns Hampered, He Tells Court," *NYT*, May 3, 1914, C5.

681 *AG,* May 30, 1913, 1.

682 *ATDSR*, 527.

683 *Brief*, 174-220.

684 MANGUM. The original 115 alleged errors were streamlined to 103 by the time it reached the Supreme Court. See "Crowd Conducted Frank Trial Says Prisoner's Lawyer," *AC,* Oct. 23, 1913, 1, 2; "May Use Jurors to Deny Charges," *AC,* Oct. 3, 1913, 5.

685 *The Encyclopedia of the Holocaust*, ed. Israel Gutman (New

York: MacMillan, 1990), 1212.

686 "Verdict Is Void, Declare Lawyers For Leo M. Frank," *AC*, June 6, 1914; Oney, *ATDSR*, 340.

687 MANGUM, 202, 216.

688 MANGUM, ca. 174ff, 179-80. See *AJ,* Oct. 25, 1913, 1; *AJ,* Oct. 29, 1913. See "All in Readiness for Frank's Trial Monday Morning," *AC*, July 27, 1913, 1, 2.

689 The significance of using a law designed to protect Blacks for the protection and promotion of Jewish rights, could not have escaped the notice of Marshall the activist. As a constitutional lawyer, he certainly understood that the 14th Amendment was driven into passage by the plight of the Black slave, and now its legal weight, if accepted by the high court, could benefit Leo Frank, and by extension the Jews. And although it failed in Frank's specific case, the Jews who would become top-heavy in the legal leadership of the "civil rights movement" similarly used the plight of Blacks suffering under Jim Crow discrimination as legal fodder to eliminate legal barriers against Jews. Jews could fight anti-Semitism "by remote control," as David Levering Lewis points out, using Black suffering as the moral weight behind their own drive for legal reforms that would first and foremost benefit Jews. Their strategy pushed the "negro" issues to the front, whilst concealing the Jewish agenda. Marshall was always adamant about the benefits of Jews operating behind the scenes and thus using Black Americans as the Jews' social and political battering ram and lightning rod. Jews would craft civil rights legislation in broad enough language to ensure its usability by all "minority groups." Marshall was clear about this when he remarked in 1924 that he hoped the success of Black civil rights organizations "may incidentally benefit Jews." See David Levering Lewis, "Parallels and Divergences: Assimilationist Strategies of Afro-American and Jewish Elites from 1910 to the Early 1930s," in *Strangers and Neighbors: Relations between Blacks and Jews in the United States,* eds. Maurianne Adams and John Bracey (Amherst: Univ. of Massachusetts Press, 1999), 339, 346; Melnick, *Black–Jewish Relations,* 126. Upon their passage in the 1960s, the civil rights laws became the bludgeon by which Jews struck down the remaining barriers to their own access to private enterprise. Once in the upper echelons of corporate America, Jews joined fellow white racists to effectively exclude "the Negro." Dr. Martin Luther King, Jr., was referring to white liberals generally when he observed:

> White Americans left the Negro on the

> ground and in devastating numbers walked off with the aggressor. It appeared that the white segregationist and the ordinary white citizen had more in common with one another than either had with the Negro….When Negroes looked for the second phase, the realization of equality, they found that many of their white allies had quietly disappeared.

See Martin Luther King, Jr., *Where Do We Go from Here: Chaos Or Community?* (Boston: Beacon Press, 1967), 3-4.

690 "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." All of America's racial history is a direct mockery of the Fourteenth Amendment.

691 Oney, *ATDSR,* 455-56, 467.

692 Henry A. Alexander and Leo Frank, *Leo M. Frank, Plaintiff in Error v. The State of Georgia, Defendant in Error*: Writ of Error to Fulton Superior Court, Brief and Argument for Plaintiff in Error, No. 3 Criminal Docket from the Supreme Court of Georgia, Oct. Term, 1914: Leo M. Frank vs. The State of Georgia, Decided October 14, 1914 (1914), 73; *Frank v. State*, 142 Georgia 617, S.C., 83 S. E. Rep. 233 (1914); *Calvin, A Slave v. State*, 25 Tex. 789 (1860).

693 MANGUM, 14.

694 A "mob" is quite different: "a large and unruly crowd of people thought of collectively as unintelligent or irrational."

695 MANGUM,18, 25, 186ff, 194, 195. Chicago reporter Paul Clendening attended the trial and rebuts claims of a mob, in "A Gentleman from the North," *Jeffersonian*, June 10, 1915, 9.

696 *The People v. Leo Frank Teacher's Guide* (New York: Anti-Defamation League, 2009), 16; Oney, *ATDSR*, 286-87, 326, 366. The *New York Sun,* Oct. 12, 1913, 6, clarifies that the expletive she used was "You Christian dog"! See "Mrs. Rae Frank, Mother of Prisoner, Denounces Solicitor Hugh Dorsey," *AC*, Aug. 14, 1913, 1, 3: As Dorsey grilled a witness about Frank's sexual indiscretions, "Mrs. Frank

glanced furiously at the prosecutor and rising from her chair she shrieked, 'No, nor you either—you dog!'" Dorsey himself addressed that event in his closing argument:

> They have maligned and abused me; they have abused the detectives; they have heaped calumny on us to such an extent that that good lady, the mother of this defendant, was so wrought up that she arose, and in this presence denounced me as a dog.

See *Argument of Hugh Dorsey*, 2. Mentioned in *AC,* Aug. 26, 1913, 7; *AC,* Aug. 15, 1913, 1; *AC,* Aug. 23, 1913, 5; *AJ,* Aug. 23, 1913, 2; *AJ*, Aug. 14, 1913; *AG*, Aug. 14, 1913, 7. "Frank's Mother Resents Questioning of Dorsey," *AG*, Aug. 14, 1913, 3: "She said things to him that were lost in the confusion." See also, Mrs. Emil Selig's reaction reported in "Mother-in-Law of Frank, On Stand, Is Angered by Dorsey," *AG*, Aug. 14, 1913, 1: "She muttered at him spitefully and glared at him with hatred in her eyes…" A headline reads, she "mutters threateningly." *AG*, Aug. 14, 1913, 5.

697 Oney, *ATDSR,* 286, 669 note to p. 286. In his summation to the jury, Dorsey explicitly denounced anti-Semitism, and "indulged in some of the common philo-Semitic rhetoric of the day…" See Dorsey's "Tribute to Jewish Race," in his *Argument*, 3-4; *AC,* Aug. 23, 1913, 5.

698 "Many Testify to Frank's Good Character," *AG*, Aug. 16, 1913, 3.

699 "Climax of Trial Reached When Frank Faced Jury," *AC,* Aug. 19, 1913, 2. "He was not disturbed by interruptions" and spoke "easily, freely, and fearlessly," wrote the *Georgian*, Aug. 19, 1913, 1-2.

700 *AG*, Aug. 21, 1913, 3, 5; *Argument of Hugh Dorsey*, 2-3; Lindemann, *The Jew Accused*, 245; *AC*, Aug. 22, 1913, 2.

701 MANGUM, 337. Oliver Wendell Holmes's dissent was accompanied by this statement: "I very seriously doubt if the petitioner [Frank] has had due process of law—not on the ground of his absence when the verdict was rendered so much as because of the trial taking place in the presence of a hostile demonstration and seemingly dangerous crowd, thought by the presiding judge to be ready for violence unless a verdict of guilty was rendered." Holmes's concern has occasioned much approving commentary from

Frank's supporters, but the Justice also couched his expression with the proviso "I understand that I am to assume that the allegations of fact [of mob domination] in the motion to set aside are true"—which they in fact were not.

702 Slaton to Ochs, Jan. 15, 1919, Ochs Papers.

703 "Final Plea For Frank To Be Made Saturday," *AC*, June 11, 1915, 12; "Hearing Before Gov. John M. Slaton re Commutation of the Death Sentence of Leo Frank," Atlanta, Ga., June 12-16, 1915, p. 207, Special Collections, Robert W. Woodruff Library, Emory University, Atlanta, GA (hereafter cited as "Commutation Hearing Before Gov. John M. Slaton").

704 "Slaton Goes in Saturday; Will be Inaugurated Governor of Georgia in the Usual Manner," *Columbus Daily Enquirer*, June 25, 1913; "Here Is the Positive Evidence Against John M. Slaton," *Jeffersonian*, Sept. 9, 1915, 1. The first advertisement for the firm Rosser, Brandon, Slaton & Phillips appeared in a trade paper on May 14, 1913, two-and-a-half weeks after the murder of Mary Phagan. *American Legal News,* July 1913, 43. See also "John Slaton's Declaration of War," *Jeffersonian*, Oct. 7, 1915, 1, 5-9; *AC,* Apr. 27, 1913; Lucian Lamar Knight, *A Standard History of Georgia and Georgians*, vol. 2 (Chicago: Lewis, 1917), 1170-71, 1192-96 (quoting Judge Samuel B. Adams).

705 *Jeffersonian*, Aug. 19, 1915, 1.

706 Tom Watson charged that Frank's defense team hurried their legal appeals along so that they could get the case before Governor Slaton before his term ended. According to Oney, *ATDSR,* 471, 472: "[I]t was a safe bet that Slaton, due to his partnership with Rosser and his connections with Atlanta's elite, would be the defense's pick to pass on Frank's application [for commutation]….Slaton was the man the defense ultimately wanted to decide Frank's fate." Also, ibid., 551-52, on Harris's position vis-à-vis Frank. According to a *New York Times* report ("Frank Hearing in June," Apr. 30, 1915, 8), Slaton clearly understood his conflict of interest, for he acknowledged that he was "a member of the law firm which defended Frank…"

707 "Slaton Refuses to Stay Executions," *AG*, June 18, 1914, 1.

708 MacLean, "The Leo Frank Case Reconsidered," 943, does not explain how all this money was specifically used in Frank's defense; nor does she address the persistent charges of bribery. On the lobbying effort for Frank, see Dinnerstein, *Leo Frank Case*, 117-35; *NYT,* Sept. 13, 1915, 3; Charlton Moseley, "Latent Klanism in Georgia,

1890-1915," *Georgia Historical Quarterly* 56, no. 3 (Fall 1972): 370-71.

709 Oney, "*ATDSR*: An Overview," 34.

710 Leonard Dinnerstein, "Frank, Leo" entry, in *Violence in America: An Encyclopedia*, ed. Ronald Gottesman (New York: Charles Scribner's Sons, 1999), 585.

711 "Fund of $135,000,000 To Loan on Cotton Crop Has Been Over-Subscribed," *AC*, Nov. 18, 1914, 1. Also, "Commutation Hearing Before Gov. John M. Slaton," 43. Also, see "Gov. Slaton Will Borrow $475,000 of Atlanta Banks," *AJ*, Aug. 13, 1913, 1, in which Slaton secures a loan on the state's behalf just to pay its teachers.

712 *Jeffersonian*, Dec. 3, 1914, 1; Oney, *ATDSR,* 365. Schiff, like Slaton, believed that "I take little stock in the theory that race prejudice has had much, if anything to do with Frank's conviction…" See Schiff to G.H. Fearons, Jan. 7, 1915, Jacob H. Schiff Correspondence, Brandeis Univ. Library, Waltham, MA. Schiff may have been drawn into the case under false pretenses. In that same private letter Schiff makes a patently false claim that seems designed to heighten the public outrage in defense of Frank: "[C]ounsel for Frank were furnished with pistols by the sheriff during the trial, so as to be able to defend themselves in case the mob, which had evidently taken control of the court-house, should attack them…" It is very likely that he was supplied with this misinformation by Frank's own team of propagandists.

713 John M. Slaton to Jacob H. Schiff, Jan. 3, 1916; Jacob H. Schiff to John M. Slaton, 1915-1916, and John M. Slaton to Jacob H. Schiff, 1915-1916, "Personal and Business Correspondence," Box 446, Jacob H. Schiff Correspondence, Brandeis Univ. Library, Waltham, MA (hereafter cited as Schiff Correspondence).

714 Slaton to Schiff, Dec. 17, 1915, Schiff Correspondence.

715 Schiff to Marshall, Jan. 5, 1916, Schiff Correspondence. Slaton thanks Schiff (Feb. 1, 1916) "for the interest and pains you have taken."

716 "Movement Is Begun To Keep Marshall Off Wilson Ticket," *AC*, June 13, 1916, 1. Schiff's telegram to the president of the United States expressing displeasure with his choice of vice president is an extraordinary indicator of Jewish power. More than that, a major Atlanta newspaper considered it front-page newsworthy.

717 July 13, 1915, 6.

718 "Whole Frank Case Reviewed in Slaton's Statement," *AC,* June 22, 1915; *Decision by Georgia Governor John M. Slaton to Grant Executive Clemency to Leo Frank,* p. 25, Leo Frank Clemency Application, 1915, Digital Collection, Clemency Applications, Convict and Fugitive Records, Governor's

Office, RG 1-4-42, Georgia Archives, http://cdm.sos.state.ga.us:2011/cdm/compoundobject/collection/frankclem/id/46/rec/2 (hereafter cited as *Decision by Governor Slaton*).

719 *Decision by Governor Slaton,* 2, 4. Slaton's assessment here is correct: see *The Secret Relationship*, 2:27, 40-41, 44-45, 52, 76, 77, 85-86, 104, 105-106, 110-11, 141-42, 148, 150, 155 n. 27, 167-68, 179, 181, 185, 194, 196, 198, 320, 410, 411. See also the Georgia Chamber of Commerce telegram to the *New York Times* printed in the *Atlanta Constitution* (Mar. 5, 1914), wherein members of the GCC "have taken exception to" Luther Z. Rosser's statement that "there was prejudice against the Jews in Atlanta."

720 *AJ*, May 6, 1914, 3; *Decision by Governor Slaton*, 24.

721 "Whole Frank Case Reviewed In Slaton's Statement," *AC*, June 22, 1915, 4. Re the fraudulent Carter letters, see the "actual" counterfeit forgeries in John M. Slaton Collection, Georgia Archives, http://cdm.sos.state.ga.us:2011/cdm/compoundobject/collection/frankclem/id/113/rec/1; *AG,* Apr. 24, 1914; *AJ,* May 1, 1914.

722 MacLean, "The Leo Frank Case Reconsidered," 918. Governor Slaton needed "two battalions of infantry, with machine guns" to surround his estate. See *NYT,* June 23, 1915, 1. See *AC,* June 22, 1915, 1, 4; "Militia Charges Crowd at Slaton Home; 26 Prisoners Now Held in County Jail," *AC,* June 27, 1915, 1; "Woodward Is Rapped by Governor Slaton," *AC,* Aug. 19, 1915, 12. According to the *New York Times* (June 24, 1915, 5), the crowds "have been rather good-natured and have not seemed bent on violence."

723 Jan. 7, 1916, Schiff Correspondence.

724 *AJ*, Aug. 19, 1913.

725 Slaton to Ochs, Jan. 15, 1919, Ochs Papers.

726 *AC*, Aug. 20, 1915, 1.

727 According to *AG*, June 21, 1915, 1, the rope that was to be used for Frank "will remain in the gallows until July 16, on which date a negro prisoner is doomed to die."

728 See Alex Lichtenstein, "Good Roads and Chain Gangs in the Progressive South: 'The Negro Convict Is a Slave,'" *Journal of Southern History* 59, no. 1 (Feb. 1993): 85-110; Talitha L. LeFlouria, *Chained in Silence: Black Women and Convict Labor in the New South* (Chapel Hill: Univ. of North Carolina Press, 2015).

729 Oney, *ATDSR,* 54.

730 See Blake McKelvey, "Penal Slavery and Southern Reconstruction," *Journal of Negro History* 20, no. 2 (April

1935): 175.

731 Martha A. Myers, "Inequality and the Punishment of Minor Offenders in the Early 20th Century," *Law & Society Review* 27, no. 2 (1993): 316, 320-23; Martha A. Myers and James L. Massey, "Race, Labor, and Punishment in Postbellum Georgia," *Social Problems* 38, no. 2 (May, 1991): 278, passim; Stephen Garton, "Managing Mercy: African Americans, Parole and Paternalism in the Georgia Prison System, 1919-1945," *Journal of Social History* 36, no. 3 (Spring 2003): 677-81; John Dittmer, *Black Georgia in the Progressive Era, 1900-1920* (Urbana: Univ. of Illinois Press, 1977), 23-26ff, 82-89.

732 Douglas Blackmon, "Slavery by Another Name," interview by Tom Ashbrook, *On Point*, June 3, 2009, http// www.onpointradio.org. Also, Martha A. Myers, "Black Threat and Incarceration in Postbellum Georgia," *Social Forces* 69, no. 2 (Dec. 1990).

733 *AJ,* Feb. 1, 1914, 4.

734 *Trial by Prejudice* (New York: Covici, Friede, 1933), 315.

735 "Leo Frank's Fate May be Decided," *AC,* Aug. 25, 1913, 1; "Vivid Murder Role: Negro Suspect Reenacts His Part in Phagan Tragedy," *WP*, June 2, 1913, 1.

736 *AC*, Aug. 28, 1913, 5; *AC,* Aug. 25, 1913, 1.

737 *AC*, June 19, 1915.

738 "Conley Grilled Five Hours by Luther Rosser," *AC*, Aug. 5, 1913, 1: "William Smith, [James Conley's] attorney, asked that he be allowed to send him [Conley] food. Judge Roan ordered that this be done….Just as he [Conley] was leaving the courtroom he asked a reporter for some cigarettes."

739 "Frank May Tell Story," *AC*, Aug. 18, 1913, 1; "Mary Phagan's Murder," *AC*, May 31, 1913, 1.

740 "Graduates of Cornell Will Aid Leo M. Frank," *AC*, Aug. 31, 1913, 2.

741 Oney, *ATDSR*, 188, 349, 423; *AC*, Aug. 28, 1913; *AJ*, Aug. 28, 1913; *AG*, Aug. 28 and 29, 1913; *AG*, Sept. 1, 1913; *NYT*, Aug. 2, 1914. Frank wrote to *Collier's* magazine writer Christopher Powell Connolly from Oct. 28, 1914, through April 6, 1915. Connolly wrote several articles for the magazine defending Frank.

742 Emphasis ours. "Frank Sentenced on Murder Charge to Hang Oct. 10," *AC*, Aug. 27, 1913, 1.

743 "Sheriff Mangum Answers Handcuffing Criticism," *AG*, Aug. 9, 1913, extra ed., 5. Leo Frank "never handcuffed"—see *AG*, Aug. 26, 1913, 3.

744 Ab Cahan, "Telling Story of Leo Frank From His Jail Cell: Forward Editor Journeyed South To Interview Convicted

Jew," translated by Chana Pollack, *Forward* archivist, *Jewish Daily Forward*, Aug. 20, 2013, http://forward.com/articles/182405/telling-story-of-leo-frank-from-his-jail-cell/?p=1. The Frank team later sued Mangum! See U.S. Supreme Court, FRANK V. MANGUM, 237 U.S. 309 (1915), LEO M. FRANK, Appellant, v. C. WHEELER MANGUM, Sheriff of Fulton County, Georgia. No. 775, Argued February 25 and 26, 1915, Decided April 19, 1915.

745 *Jeffersonian*, Oct. 7, 1915, 5; "The Rich Jews Indict a State! The Whole South Traduced: In the Matter of Leo Frank," *WM*, October 1915, p. 315.

746 *AJ*, June 21, 1915; *AC*, June 21 and 22, 1915.

747 "To the Prison Commission of Georgia," *Jeffersonian*, Aug. 12, 1915, 7.

748 Oney, *ATDSR*, 529-30. Oney, *ATDSR*, 529, makes a remarkable statement: "…the state prison farm provided *a conducive setting for Frank's physical and emotional recovery* [post-commutation move]. …[I]ts shortcomings were not of a sort that seemed likely to affect white male prisoners. …" And ibid., 530: "[T]he prison farm was regarded as a soft snap."

749 "Where Many Famous Prisoners Have Served Time," *AC*, June 29, 2013, B12; *Macon (GA) Telegraph*, July 25, 1915, quoted in Oney, *ATDSR*, 530.

750 Emphasis ours. Leo Frank to his brother-in-law Charles Ursenbach, August 3, 1915, Leo Frank Trial Collection, Robert D. Farber Univ. Archives and Special Collections Dept., Brandeis University Libraries (hereafter cited as Frank Trial Collection).

751 Leo Frank to Lucille Frank, July 1, 1915. This suggests that Lucille may not have been writing her husband—as often or as frequently as Frank would have liked. Leo Frank to Lucille Frank, June 21, 1915; Leo Frank to Lucille Frank, June 29, 1915, Frank Trial Collection.

752 Leo Frank to Lucille Frank, June 23, 1915, Frank Trial Collection. Milledgeville mayor Colonel Bell "had apparently shown Frank much kindness, as had others affiliated with the town's mayor."

753 Oney, *ATDSR*, 532-33, 549; Leo Frank to Lucille Frank, June 28, 1915; Leo Frank to Lucille Frank, July 7, 1915; Leo Frank to Lucille Frank, July 10, 1915; Leo Frank to Emil Selig, Aug. 4, 1915, Frank Trial Collection.

754 Leo Frank to Lucille Frank, July 1, 1915; Leo Frank to Lucille Frank, July 2, 1915; Leo Frank to Lucille Frank, June 22, 1915; Leo Frank to Lucille Frank, July 9, 1915, Frank Trial Collection.

755 Dinnerstein, *Leo Frank Case*, 137.

756 *NYT*, Aug. 18, 1915. Letter to Rosser dated July 1, 1915

—see *AJ*, Aug. 17, 1915, 1.

757 Prison Commissioner Robert E. Davison.

758 Oney, *ATDSR*, 532 (slight changes by Oney to letter text); Leo Frank to Lucille Frank, June 29, 1915; Leo Frank to Lucille Frank, June 28, 1915, Frank Trial Collection.

759 Leo Frank to Lucille Frank, June 21, 1915, Frank Trial Collection.

760 Leo Frank to Lucille Frank, June 25, 1915, Frank Trial Collection.

761 Claude B. Nealy, "Warden is Stirred by Charges," *AG*, July 23, 1915. Fulton County Sheriff C.W. Mangum had to face similar public charges of favoritism when Frank was in his custody. See *AJ*, Sept. 21, 1913.

762 Oney, *ATDSR*, 532. Emphasis ours. Oney suggests that Frank's praise of the warden may have been due to Frank's suspicion that Smith was reading his mail. Ibid., 532: "'The warden is some fine fellow,' [Frank] wrote Lucille early on." In his correspondence with Sears magnate Julius Rosenwald, Frank wrote of "the kindness of the Warden and his staff." Ibid., 559: He considered the warden, J.E. Smith, "a friend."

763 Oney, *ATDSR*, 529-30; and on the convict lease system, ibid., 531, and Blackmon, *Slavery by Another Name*. On the convict lease system in Georgia, see A. Elizabeth Taylor, "The Origin and Development of the Convict Lease System in Georgia," *Georgia Historical Quarterly* 26, no. 2 (June 1942): 113-128; Edward L. Ayers, *Vengeance and Justice: Crime and Punishment in the 19th Century American South* (New York: Oxford Univ. Press, 1984), 170, 179-181, 185-222, passim. Ayers shows that from "emancipation" to the 1890s the prison population of whites stayed constant, while the Black prison population grew by 900 percent. Prisons then—as they are now—were a prime source of cheap labor for industrialists and state governments, which operated the convict-leasing system as a continuation of slavery. See Matthew J. Mancini, *One Dies, Get Another: Convict Leasing in the American South, 1866–1928* (Columbia, SC: Univ. of South Carolina Press, 1996); Martha A. Myers and James L. Massey, "Race, Labor, and Punishment in Postbellum Georgia," *Social Problems* 38, no. 2 (May 1991); Robert H. Zieger, *For Jobs and Freedom: Race and Labor in America Since 1865* (Lexington: Univ. Press of Kentucky, 2007), 44ff.

As late as the 1960s (and arguably still), places throughout the South, like the penal institution Alabama Industrial School for Negro Children (AIS) in Montgomery, were enslaving Black children for lengthy terms as plantation laborers. John Dittmer, *Black Georgia in the*

Progressive Era, 1900-1920 (Urbana: Univ. of Illinois Press, 1977), 82-89; and Donald L. Grant, *The Way It Was in the South: The Black Experience in Georgia* (Athens, GA: Univ. of Georgia Press, 2001), 155-59.

764 Oney, *ATDSR*, 538-39.

765 *AJ*, July 20, 1915. A previous grand jury investigation of prison conditions had heard "revolting tales of cruel inhuman treatment, rotten food and insanitary living conditions." Prisoners at the hearing showed bruises, blisters, welts, and scars from beatings and floggings they had received from brutal prison guards. See "Awful Tales Told By Many Convicts of Convict Guard," *AC*, Jan. 30, 1914, 5; "All Camps Will Be Investigated," *AC*, Feb. 5, 1914, 1.

766 *CD*, Feb. 17, 1923.

767 Leo Frank to Lucille Frank, June 29, 1915, Frank Trial Collection. This also leads one to believe, as many Georgians feared, that Frank thought his incarceration to be temporary until Georgians got "back to normal," whereupon his quiet release might be arranged.

768 See Melnick, *Black–Jewish Relations*, 69; *Jeffersonian*, Aug. 5, 1915, 3; "Leo Frank's Throat Cut by State Farm Prisoner," *AC*, July 18, 1915, 1; "Frank's Condition Steadily Improving; Good Chance to Recover, Say Doctors," *AC*, July 19, 1915, 1; *AC*, Aug. 17, 1915, 1. In court during his trial, Frank was accused of having a pedophilic relationship with an office boy. See MANGUM, 113-14. Creen himself claimed that he feared the prison would be stormed by outraged citizens seeking Frank's death and that such a confrontation would result in many deaths of innocent people. *AJ*, July 24, 1915.

769 *AJ*, July 19, 1915; *AJ*, July 20, 1915; *AJ*, July 24, 1915; *AC,* July 19, 1915, 1. In fact three different investigations of the stabbing were conducted by "special committees."

770 "Gov. Harris Fears Frank Cannot Live," *AI*, July 29, 1915, 6.

771 *AJ*, July 20, 1915.

772 *AI*, Aug. 26, 1915.

773 "Frank's Wedding Ring Entrusted to Reporter," *AJ*, Aug. 19, 1915, 1.

774 "Mob's Own Story," *AC*, Aug. 18, 1915, 1; Lucian Lamar Knight, *A Standard History of Georgia and Georgians*, vol. 2 (Chicago, 1917), 1180-90.

775 "Mob Law is Condemned in Statement by Harris on Leo Frank Lynching," *AC*, Aug. 20, 1915.

776 "Harris to Urge Court to Punish Lynchers," *AJ*, Aug. 20, 1915.

777 See *NYT*, Aug. 22, 1915, 6, 11; Steve Oney, "The

Lynching of Leo Frank," *Esquire*, Sept. 1985, 92, 101; Oney, *ATDSR*, 585. See Donald E. Wilkes, Jr., "Steve Oney's List of the Leo Frank Lynchers," *Flagpole Magazine*, May 5, 2004, http://flagpole.com/news/news-features/2004/05/05/steve-oney-s-list-of-the-leo-frank-lynchers. Golden (*A Little Girl Is Dead*, 293 note) wrote, "There was no mystery as to the identity of the lynchers…" Dinnerstein, *Leo Frank Case*, 216, note 21, concurs. Though hundreds of photographs had long been taken of Black lynching victims and some sold as postcards and otherwise publicly displayed, Atlanta passed an ordinance (August 21, 1915) making the sale of photographs of lynch victims unlawful in *direct* response to the Leo Frank lynching. See *NYT*, Aug. 22, 1915, 11. The *American Israelite*, Aug. 26, 1915, 1, seemed to acknowledge the backfiring of its tactics and called for Jews to retreat. Melnick, *Black–Jewish Relations*, 52, says, "As with most lynchings of 'white' people in the South, a loss of faith in the orderly workings of the legal system preceded the appeal to summary justice…"

778 *AJ*, Aug. 19, 1915.

779 A zealous Frankite, Chicagoan Lester Bauer, had collected $1,500 on his way to a reward fund goal of $20,000 for the arrest and conviction of the lynchers and for those who turned state's evidence against the lynchers. "Mob Law is Condemned in Statement by Harris on Leo Frank Lynching," *AC*, Aug. 20, 1915. This was the largest funding goal of several rank-and-file Jewish responses to the lynching. See Oney, *ATDSR*, 578-79.

780 "Dr. Adler Says Georgia Alone Should Seek Lynchers," *AJ*, Aug. 20, 1915, 3.

781 U.S. Census Bureau, "300 Million Americans," Information Please Database, Pearson Education, Inc., 2007, http://www.infoplease.com/spot/300-million-americans.html.

782 Marshall, as president of the American Jewish Committee, would later be found privately chastising those Jews attempting to stop the Ku Klux Klan. He took an active role in destroying NAACP-supported anti-lynching legislation. See *The Secret Relationship*, 2:431-34.

783 "Says Tom Watson Is Frank's Slayer," *NYT*, Aug. 18, 1915, 3. Marshall, on Frank's death, is quoted: "His sufferings and martyrdom are at an end, but he has not lived in vain." Reprinted in *AI*, Aug. 26,1915. The lynchers themselves, though, had begun to plan the murder of Leo Frank right after Slaton's commutation, so while Watson certainly represented their sentiments, they clearly did not need Watson's encouragement or approval to carry out the

act. See "Mob's Own Story in Detail," *AC,* Aug. 18, 1915*,* 1.

784 *AI*, Sept. 16, 1915.

785 The description is repeated twice by the *Tennessean* in its Mar. 7, 1982, edition.

786 Oney, *ATDSR*, 373-74, 426, 457. Oney referred to "the paper's unremitting partisanship" and concluded that the *Times* "was more interested in disseminating propaganda than in practicing journalism," and in presenting "a shrill and one-sided picture of the facts."

787 In fact, the Associated Press received accolades for its coverage of the Leo Frank case, including the lynching. Several editors of Northern-based papers complimented the AP for its quick and thorough dispatches. See "The Report of the Leo M. Frank Case," *Service Bulletin of The Associated Press*, Dec. 17, 1915.

788 Golden, *A Little Girl Is Dead*, 288, 300.

789 In earlier drafts of his book Golden actually claims to quote from that September issue of the *Jeffersonian*: "Twenty-five of Marietta's best citizens visited the grave of Little Mary Phagan and pledged themselves never to rest until the crime was avenged. Noble Knights of Mary Phagan [sic]." "Corrected Manuscript," Box 3, LG3, Harry Golden Papers, Charlotte-McKlenburg Library, Charlotte, NC (hereafter cited as Golden Papers). No such statement exists in that or any issue of the *Jeffersonian* or *Watson's Magazine*.

790 *Jeffersonian*, Aug. 19, 1915, 1: "A Vigilance Committee redeems Georgia, and carries out the sentence of the Law on the Jew who raped and murdered the little Gentile girl, Mary Phagan." *Jeffersonian*, Aug. 26, 1915, 1: "…the Vigilance Committee which *executed upon Leo Frank the sentence the Law had three times pronounced in the court room*…" *Jeffersonian,* Sept. 2, 1915, 1, 7: "…and we will meet the 'Leo Frank League' with a Gentile League, *if they provoke us much further*." "…another Ku Klux Klan may be organized to restore HOME RULE." *Jeffersonian*, Sept. 16, 1915, 4: "Leo Frank was under sentence of death when the Vigilantes executed him."

791 Dinnerstein, *The Leo Frank Case*, 218 note 8.

792 *ATDSR*, 508-9, 513. Oney cites only the *New York Times* article of June 26, 1915, to make the following assertion (*ATDSR*, 508): "…reports began to circulate that a group of 150 Mariettans known as the Knights of Mary Phagan had met at the child's grave and vowed to 'get' Slaton and Frank, no matter how long it takes." That language is added by Oney, who also adds the graveside meeting. Oney continues, "All three Atlanta papers ignored these

rumblings, but the *New York Times* flatly asserted: 'There seems to be little doubt that such a body has been formed.'" Oney—who flags the *Times* as a Leo Frank defense organ—wholly accepts its coverage, "unmediated by any skepticism." Oney abandons the term Knights of Mary Phagan and instead calls them "vigilantes" in his lengthy *Daily Beast* article posted on May 2, 2015, titled "America's Only Anti-Semitic Lynching," http://www.thedailybeast.com/articles/2015/05/02/america-s-only-anti-semitic-lynching.html.

793 Harry Golden, "Frank, Leo Max," *Encyclopaedia Judaica*, 2d ed. (Thomson Gale, 2007), 7:193.

794 U.S. Congress, House, Committee on Rules, *The Ku-Klux Klan: Hearings Before the Committee on Rules, House of Representatives,* 67th Congress, 1st sess., Jan. 1, 1921, U.S. Government Printing Office, 121. There is no mention of Mary Phagan or the Knights of Mary Phagan. The infamous Stone Mountain (about 20 miles from Atlanta in DeKalb County, Georgia) Ku Klux Klan meeting was covered by an *Atlanta Journal* reporter ("Ku Klux Klan Meets At Night on Stone Mountain," November 28, 1915, 8), who called the ceremony "sincere," "elaborate," and "notable for the impressiveness of its setting and detail." The reporter may very likely have been the paper's Jewish managing editor John S. Cohen, who was described as being "high in the councils of the Ku Klux Klan." Even so, neither Frank nor Mary Phagan was mentioned as having been the reason or incentive or rationale for any part of the four-hour ceremony.

795 Dinnerstein, *Leo Frank Case*, 149-50. The number 33 may be an allusion to the highest rank in Freemasonry, 33 degrees. For more on Jewish Southerners, freemasonry, and the Ku Klux Klan, see *The Secret Relationship,* 2:406-12.

796 Thomas R. Pegram, *One Hundred Percent American: The Rebirth and Decline of the Ku Klux Klan in the 1920s* (Chicago: Ivan R. Dee, 2011), 158, clearly states that "historians have found no clear connections" between Leo Frank and the KKK, calling it a "founding myth," but many notable books now pair Leo Frank with the rebirth of the KKK as though they are inseparable. Among those in the "Knights of Mary Phagan" echo chamber are Michael Newton, *The Ku Klux Klan in Mississippi: A History*; Marty Gitlin, *The Ku Klux Klan: A Guide to an American Subculture*; Michael Phillips, *White Metropolis: Race, Ethnicity, and Religion in Dallas*; Cynthia Carr, *Our Town*; Robert Seitz Frey and Nancy C. Thompson, *The Silent and The Damned*; Scott M. Cutlip, *The Unseen Power: Public Relations, A History*; Mark Jones, *Criminals of the Bible*; Catherine

McNicol Stock, *Rural Radicals: Righteous Rage in the American Grain*; Wilbur R. Miller, *The Social History of Crime and Punishment in America*; Chip Berlet and Matthew Nemiroff Lyons, *Right-wing Populism in America*; Nancy MacLean, *Behind the Mask of Chivalry*; Rory McVeigh, *The Rise of the Ku Klux Klan*; R. Barri Flowers, *Murder at the Pencil Factory*; Elizabeth Dorsey Hatle, *The Ku Klux Klan in Minnesota*; Melvyn Stokes, *American History Through Hollywood Film*; and Kenneth Coleman, *A History of Georgia*.

797 *The Secret Relationship*, vol. 2, passim, particularly chap. 2, "Jewish Political Power in the Jim Crow South," 103-146, and chap. 6, "Jews, Lynching, and the Ku Klux Klan," 395-467.

798 William J. Simmons, *The Klan Unmasked* (1923), quoted in *The Secret Relationship*, 2:439-40.

799 *The Secret Relationship*, 2:454; "'NEGRO' WITH A CAPITAL 'N,'" *NYT*, Mar. 7, 1930, 20. National magazines had long ago made the change. See "CAPITAL 'N' NEGRO WIDENS," *NYT*, Mar. 9, 1930, 21. See also "'Negro' With a Big 'N'," *New York Age*, Aug. 17, 1918, reprinted in *The Selected Writings of James Weldon Johnson,* vol. 1, *The New York Age Editorials, 1914–1923,* ed. Sondra K. Wilson (New York: Oxford Univ. Press, 1995), 36-38.

800 Lawrence J. Oliver, "Writing from the Right during the 'Red Decade': Thomas Dixon's Attack on W. E. B. Du Bois and James Weldon Johnson in *The Flaming Sword*," *American Literature* 70, no. 1 (March 1998): 141; Charles C. Alexander, *The Ku Klux Klan in the Southwest* (Lexington: Univ. of Kentucky Press, 1966), 18; Marion Monteval, *The Klan Inside Out* (1924), 11.

801 Sara Bullard, ed., *The Ku Klux Klan: A History of Racism and Violence* (Montgomery: Southern Poverty Law Center, 1991), 19. Though it is a veritable branch of the ADL, the SPLC does not mention the "Knights of Mary Phagan." Also, despite the SPLC's claim, the film was never "acceptable" to Blacks, who mounted many protests against the showing of the film.

802 *The Secret Relationship*, 2:135, 396-413, 425-27, 443-47. The resurgence of the Ku Klux Klan in 1915 and its phenomenal growth over the next generation had significant Jewish participation as well. See *The Secret Relationship*, 2:399-467.

803 See Neal Gabler, *An Empire of Their Own* (New York: Crown, 1988), 90; Bosley Crowther*, Hollywood Rajah: The Life and Times of Louis B. Mayer* (New York: Holt, Rinehart & Winston, 1960), 48-49; Charles Higham, *Merchant of*

Dreams: Louis B. Mayer, MGM and the Secret Hollywood (New York: Donald I. Fine, 1993), 27.

804 Stephen Whitfield, *Voices of Jacob, Hands of Esau: Jews in American Life and Thought* (Hamden, CT: Archon Books, 1982), 98, 223.

805 "Good Business with Nation Film," *Moving Picture World*, Jan. 15, 1916, 458.

806 "'Birth of a Nation' Returns to Atlanta Theater on Nov. 27," *AC*, Nov. 19, 1916, C4.

807 "'Birth of a Nation' Returns to Atlanta Theater on Nov. 27," *AC*, Nov. 19, 1916, B2; "1,000 People Turned Away On Monday Afternoon At First Matinee of 'The Birth of a Nation,'" *AC*, Nov. 28, 1916, 7; *AC*, Nov. 24, 1916.

808 Nov. 28, 1915, 6-7. The *Journal* ran the same ad on the same day (pp. 6-7). Also, "Great Outdoors is D. W. Griffith's Stage: Hundreds of Acres Covered in 'THE BIRTH OF A NATION,'" *AC*, Nov. 28, 1915, C20; "Hundreds Brought to Atlanta By 'The Birth of a Nation,'" *AC*, Dec. 13, 1915, 5.

809 *AC*, Dec. 31, 1915; *AJ*, Nov. 28, 1915, 3.

810 *AC*, Dec. 7, 1915, 7.

811 Dec. 13, 1915, 2.

812 *AC*, Nov. 7, 1915, D8.

813 University of Georgia School of Law professor Donald E. Wilkes, Jr., collected and annotated two lists and published them on the college's website, under the title "Wrongly Accused, Falsely Convicted, Wantonly Murdered" <http://www.law.uga.edu/dwilkes_more/his38_wrongly.html>. Another list was produced in 2000 by Stephen Goldfarb; another was generated by Steve Oney, the journalist and writer of the 2003 book *And the Dead Shall Rise*. The victim's niece and namesake, Mary Phagan Kean, is the source for Goldfarb's list, but she maintains the names cannot be verified or proved accurate. See Kathy Sawyer, "85 Years Later, List Reopens Infamous Lynching's Wounds," *Topeka Capital-Journal,* June 22, 2000, http://cjonline.com/stories/062200/new_lynch.shtml.

814 Lasker, interview.

815 Ibid.

816 See Peter M. Ascoli, *Julius Rosenwald: The Man Who Built Sears, Roebuck and Advanced the Cause of Black Education in the American South* (Bloomington: Indiana Univ. Press, 2006), 176.

817 "Application For Posthumous Pardon for Leo Frank: Before the State Board of Pardons and Paroles of the State of Georgia," Jan. 4, 1983.

818 Howard Simons, *Jewish Times: Voices of the American*

Jewish Experience (Boston: Houghton Mifflin, 1988), 25. According to Albert Lasker, "He [Gov. John M. Slaton] said, '….I will reprieve him and at some later date a later Governor will surely pardon him.'" Lasker, interview, 10: The Governor said, "It is much better to let him stay in the penitentiary for a few years, th[e]n he will be pardoned."

819 Oney, *ATDSR*, 535; M. M. Silver, *Louis Marshall and the Rise of Jewish Ethnicity in America: A Biography* (Syracuse, NY: Syracuse Univ. Press, 2012), 271.

820 Nathaniel E. Harris, *Autobiography: The Story Of An Old Man's Life With Reminiscences of Seventy-Five Years* (Macon GA: J. W. Burke, 1925), 366-67.

821 Oney, *ATDSR*, 590.

822 Oney, *ATDSR*, 535. See also the *NYT*, July 26, 1915, advertisement of "Only Genuine Motion Pictures of LEO FRANK Showing Life in Jail and Gov. Slaton Commuting His Sentence," displayed on p. 16, just below the advertisement for D. W. Griffith's "GIGANTIC SPECTACLE," *Birth of a Nation*. Both movie ads are right next to a racist advertisement placed by the paper cup company Lily Cup Co.

823 Lasker, interview, 5.

824 The eleven girls who did testify against Frank did not elaborate in the press on their "bad" experiences with Leo Frank. This was probably at Dorsey's request in case a new trial were ordered or he prosecuted Frank on the charge of "rape or perversion," as he promised to do. See "Present Status of the Frank Case," *AI*, Feb. 18, 1915, 4, in which Dorsey was quoted thus: "'[T]here is no law which would prevent action being taken against [Frank] on either the charge of rape or perversion.'….That Frank can be brought before the courts on either of the two above named charges is admitted by Attorney Reuben Arnold…" See also *AC,* Jan. 31, 1915, 1.

825 The Ochs-Lasker Saga of Leo Frank had inspired at least two published poems in the *American Israelite* (Nathan Cohen's "Leo Frank," in the Aug. 19, 1915, issue, and William Ellery Leonard's "Leo Frank," in the Aug. 26, 1915, issue).

826 *AI*, Dec. 3, 1914, 4 (emphasis ours). Again, of the more than 100 complaints Frank filed with the Supreme Court, *not a single one* claimed "anti-Semitism" as a factor in the trial. See MANGUM.

827 Aug. 18, 1915, 2.

828 Rebecca Burns, "Why the Leo Frank lynching resonates a century later: A conversation with Steve Oney, author of the definitive account of the secretive hanging in Marietta that was never prosecuted and amounted to an attack on

Georgia's justice system," August 5, 2015, http://www.atlantamagazine.com/news-culture-articles/why-the-leo-frank-lynching-resonates-a-century-later/.

829 Dan Ephron, *Killing a King: The Assassination of Yitzhak Rabin and the Remaking of Israel* (New York: W. W. Norton, 2015), 94-107, 135, 138, 149, 157, 182, 195, 202-3, 215-16; "The Jewish Snitch," *Moment*, March-April 2013, http://www.momentmag.com/jewish-word-moser/;
Michael Karpin and Ina Friedman, *Murder in the Name of God: The Plot to Kill Yitzhak Rabin* (London: Granta Books, 1999).

830 See the Talmud, Pesachim 49b: "We do not give testimony in front of him [the Gentile]…we do not summons him to be a witness…and we do not accept testimony from him[.]"

831 Simons, *Jewish Times*, 18.

832 Daniel J Boorstin and Ruth Frankel Boorstin, *Cleopatra's Nose: Essays on the Unexpected* (New York: Vintage Books, 1995), 184.

833 Emphasis ours. "Girl Murdered in Pencil Factory," This Day in History—April 26, 1913, History Channel, http://www.history.com/this-day-in-history/girl-murdered-in-pencil-factory.

834 Hannah Lee, "Southern Jewish Memories," *Philadelphia Jewish Voice*, Oct. 27, 2011, http://blog.pjvoice.com/diary/760/a-legacy-of-southern-jewish-memories.

835 *The Secret Relationship*, 1:132-33. See Charles C. Jones, "The Settlement of the Jews in Georgia," *Publications of the American Jewish Historical Society*, vol. 1 (1893); Leon Hühner, "Jews of Georgia in Colonial Times," *Publications of the American Jewish Historical Society*, vol. 10 (1902); Jacob Rader Marcus, *Early American Jewry* (Philadelphia: Jewish Publication Society of America, 1951), 2:287. See also Leonard Dinnerstein, "Neglected Aspects of Southern Jewish History," *American Jewish Historical Quarterly* 61 (1971–72): 53-54.

836 *AJ,* Jan. 1, 1914, 13.

837 *AJ,* Jan. 2, 1914, 5.

838 *AJ,* Mar. 28, 1914.

839 See also the advertisement with photo titled "Watch Goldberg 'do' Europe," in *AJ*, July 19, 1913, 3.

840 *AJ,* Feb. 11, 1914.

841 Mar. 30, 1914. The report even discussed the group's formation of the Anti-Defamation League, yet no connection was made between the "League" and the Leo Frank case. See also *AJ*, Mar. 28, 1914.

842 "Strangers in Marietta Shipped Out of Town," *AJ*, Aug. 29, 1915, 3.

843 “Arrests Follow Row Over Frank Picture,” *AJ*, Aug. 29, 1915, 3. After decades of Jewish- and Gentile-owned stores openly selling lynching photos of mangled Black bodies, the Frank case generated legislation banning the practice. See “Sale of Frank Pictures Stopped in Mobile, Ala.,” *AJ*, Aug. 29, 1915, 3.

844 *AJ,* Sept. 19, 1915. Neither were any of the other principals ever targeted: the Seligs, Lucille Frank, the Haases, and gentiles Luther Rosser and Reuben Arnold were not bothered.

845 *AJ*, Aug. 29, 1915.

846 “Exercises at the Alliance,” *AJ*, Aug. 29, 1915, 9.

847 *AJ*, Sept. 5, 1915.

848 “Mr. Albert Greenberg Now With Jacobs’ Store,” *AJ*, Sept. 5, 1915, 10. And “Negro Who Entered Woman’s Room Hanged,” ibid.

849 *AJ,* Sept. 19, 1915.

850 *AJ*, Sept. 5, 1915.

851 *AJ*, Sept. 6, 1915, 3.

852 *AJ*, Sept. 7, 1915.

853 “Jews to Plan Aid for Brothers,” *AJ*, Sept. 8, 1915.

854 “Prisoners Participate in Jewish Services,” *AJ*, Sept. 12, 1915.

855 “City Election Falls on Jewish Holiday,” *AJ*, Sept. 14, 1915.

856 “Jews Asked to Exercise Care in Burning Candles,” *AJ*, Sept. 16, 1915, 4.

857 “Succoth Dance,” *AJ*, Sept. 24, 1915, 12.

858 *AJ*, Oct. 3, 1915.

859 *AJ*, Oct. 10, 1915.

860 “Oscar Elsas Sues for Auto Collision Damage,” *AJ*, Oct. 10, 1915, 12.

861 *AJ*, Oct. 24, 1915, 4. Tanlac “tonic” was shown to be nearly 20 percent alcohol and considered medical quackery.

862 *AJ*, Oct. 22, 1915, 11.

863 *AJ*, Nov. 3, 1915, 5.

864 *AJ*, Nov. 7, 1915.

865 *AJ*, Nov. 7, 1915.

866 “Many Holiday Buyers Visit Montag Brothers,” *AJ*, Nov. 28, 1915.

867 *AJ*, Nov. 28, 1915, 8.

868 Emphasis ours. “Topics of the Times,” *NYT,* Dec. 6, 1915, 8; Hertzberg, *Strangers,* 214; Bauman, “Factionalism and Ethnic Politics in Atlanta,” 43, 48.

869 Lindemann, *The Jew Accused*, 271, 224-25, 270, 275-76. Hertzberg, *Strangers*, 213. There was no such phenomenon

—no exodus by Jews, no boycott by Gentiles.

870 "Atlanta, Georgia," *Encyclopedia of Southern Jewish Communities*, 2006, http://www.isjl.org/history/archive/ga/atlanta.html. Rome, Ga., went from 104 Jews in 1907 to 250 in 1919, with Jewish businesses "lin[ing] the streets…" See "Rome, Georgia," *Encyclopedia of Southern Jewish Communities*, 2006, http://www.isjl.org/history/archive/ga/rome.html. In Savannah, the Jewish population increased from 3,000 in 1912 to over 5,000 in 1918. See Savannah, Georgia," *Encyclopedia of Southern Jewish Communities*, 2006, http://www.isjl.org/history/archive/ga/savannah.html.

871 Oney, "The Lynching of Leo Frank," 104. See Golden, *A Little Girl Is Dead,* 309. Lucille Selig Frank chose not to be buried next to her husband. Oney, *ATDSR,* 608, 626, 627-28, 629.

872 Frey and Thompson, *The Silent*, 55.

873 Edward Baptist, *The Half Has Never Been Told: Slavery and the Making of American Capitalism* (New York: Basic Books, 2014); John Dittmer, *Black Georgia in the Progressive Era, 1900-1920* (Urbana, IL: Univ. of Illinois Press, 1977), 23. Farm workers were 60 percent of the state's work force, over half of them Black. Of those, two-thirds were wage laborers, 70,000 were tenants, and only 10,000 "owned" their farms but depended on the crop-lien financing system that exploited all farmers, Black and white. See *The Secret Relationship*, 2:286ff. Frank's own company was also tied to agriculture: the raw material for its pencils was cut and harvested by Blacks in lumber camps. See A. Elizabeth Taylor, "The Origin and Development of the Convict Lease System in Georgia," *Georgia Historical Quarterly* 26, no. 2 (June 1942): 113-128, esp. 125-27; Robert S. Maxwell and Robert D. Baker, *Sawdust Empire* (College Station: Texas A&M Univ. Press, 1983); Archer H. Mayor, *Southern Timberman* (Athens: Univ. of Georgia Press, 1988); John Hebron Moore, *Andrew Brown and Cypress Lumbering in the Old Southwest* (Baton Rouge: Louisiana State Univ. Press, 1967); Paul Oliver, *Blues Fell This Morning* (New York: Horizon Press, 1960). See also James Hardy Dillard's introduction to *Negro Migration in 1916-17* (Washington: U.S. Dept. of Labor, Government Printing Office, 1919), 93-113 and passim.

874 Oney, *ATDSR,* 149. The 1890 census reported 17 Black male lawyers, a figure that decreased to 8 by 1940 and rose to just 54 in 1970. No Black women were admitted to the bar until 1943. See "Legal Profession," *New Georgia Encyclopedia*, Aug. 20, 2013, http://

www.georgiaencyclopedia.org/articles/government-politics/legal-profession.Blacks.

875 See for example Andrew Waters, ed., *On Jordan's Stormy Banks: Personal Accounts of Slavery in Georgia* (Winston-Salem, NC: John F. Blair, 2000), 30-31.

876 Eugene J. Watts, "The Police in Atlanta, 1890-1905," *Journal of Southern History* 39, no. 2 (May 1973): 172.

877 Melnick, *Black–Jewish Relations,* 33; Joel Williamson, *The Crucible of Race* (New York: Oxford Press, 1984), 213; Dinnerstein, *The Leo Frank Case,* 8-9: "In 1905 the Atlanta police apprehended 17,000 persons out of a total population of 115,000, and the following year 22,000. These figures more than tripled the number in New Orleans, although that city had twice Atlanta's population. More than two-thirds of those detained were guilty of disorderly conduct and drunkenness." Watts, "The Police in Atlanta," 171.

878 Dinnerstein, "Atlanta in the Progressive Era," 139. Watts, "The Police in Atlanta," 172, n. 15: "In 1900 Judge Arnold Broyles of the Recorder's Court, pleading for the establishment of a juvenile reformatory, said: 'I have never sent white boys or white girls to the stockade.' Instead, he had them locked up in cells in the police barracks."

879 See *AJ,* Mar. 4, 1914.

880 Steve Fennessy, "Atlanta's Jack the Ripper: Did a serial killer murder 20 women a century ago?" Creative Loafing Atlanta, Oct. 26, 2005, http://clatl.com/atlanta/atlantas-jack-the-ripper/Content?oid=1257657. In 1913, the year of Mary Phagan's murder, it was reported that there were 47 homicides in Atlanta, 38 of them Black victims, resulting in 29 arrests. "Gunman and Thug Busy in Atlanta During Year 1913," *AC*, Jan. 1, 1914, 1, 3.

881 Reaction to actor Mel Gibson's reportedly negative comments about Jews. Jake Tapper, "Like Father, Like Son?" July 31, 2006, http://abcnews.go.com/Entertainment/story?id=2256719.

882 *AC*, Aug. 23, 1913, 2; John D. Lawson, ed., *American State Trials*, vol. 10 (1918), 296.

883 *AJ*, Aug. 17, 1913, 1; *AJ*, Aug. 26, 1913; "EXPENSE OF FRANK CASE IS VOTED TO SOLICITOR," *AJ*, Nov. 5, 1913, 1; *AJ*, Nov. 1, 1913.

884 Pierre van Paassen, *To Number Our Days* (New York: Charles Scribner's Sons, 1964), 236-37. According to the *Miami Daily News*, Nov. 21, 1943, 1:

> The [Frank] case had aroused more attention nationally and in a greater roster of important newspapers than any other ever tried in the

South….During the appeals more than a hundred of the more important newspapers sent representatives to investigate the case.

885 Douglas A. Blackmon, *Slavery by Another Name: The Re-Enslavement of Black People in America from the Civil War to World War II* (New York: Doubleday, 2008). The Atlanta papers are full of stories mocking Blacks who had been ensnared by the Jim Crow courts. None of their cases are taken seriously and all the "defendants" are assumed to be naturally criminal.

886 *AJ*, Aug. 23, 1913. Incredibly, Rosser and van Paassen are probably referring to the same judge, Andrew E. Calhoun. See Pierre van Paassen, "Interview with Judge Calhoun Published on 73rd Birthday," *AC*, June 29, 1925, 2.

887 "Known Georgia Lynching Victims," Lynching Database, The Mary Turner Project – Remembering Mary Turner, Valdosta State University Foundation, http://www.maryturner.org/database.htm. Information also drawn from Fitzhugh W. Brundage, *Lynching in the New South* (Champaign, IL: Univ. of Illinois Press, 1993).

888 James Weldon Johnson, "Anarchy in Georgia," *New York Age*, Jan. 27, 1916.

889 Julie Buckner Armstrong, *Mary Turner and the Memory of Lynching* (Athens: Univ. of Georgia Press, 2011); Roberta Strauss Feuerlicht, *The Fate of the Jews: A People Torn Between Israeli Power and Jewish Ethics* (New York: Times Books, 1983), 188.

890 *Lynching in America: Confronting the Legacy of Racial Terror* (Montgomery, AL: Equal Justice Initiative, 2015), http://www.eji.org/lynchinginamerica.

891 Jerome H. Skolnick and James J. Fyfe, *Above the Law: Police and the Excessive Use of Force* (New York: Free Press, 1993), 45. See *NYT,* Dec. 20, 1914, SM9; *AC,* June 6, 1913, 1, 2; *NYT,* Mar. 13, 1914, 3; *NYT,* Mar. 19, 1914, 1; Golden, *A Little Girl Is Dead,* 85; *AJ,* Apr. 28, 1913, 1; Apr. 29, 1913, 1; *AG,* Apr. 29, 1913, 1; Apr. 29, 1913, extra no. 5 ed., 1; *AC,* Apr. 28, 1913, 1; Apr. 29, 1913, 1; Apr. 30, 1913, 1; July 27, 1913, 4. The third degree explained in "Detective Chief Tells Grand Jury of 'Third Degree,'" *AC*, June 15, 1913, 1 (Chief Lanford herein admits, "With white prisoners the method is different"). "Detective Harry Scott's Hunch," *AC,* July 13, 1913, B7; "Climax of Trial Reached," *AC,* Aug. 19, 1913, 2; "Frank Ends Statement," *AC,* Aug. 19, 1913, 1. Ironically, testimony obtained by way of the "third degree" was outlawed during the Frank trial when a ruling was made in the case of C.E.

Underwood, a white man charged with keeping intoxicating liquors at his place of business. "'THIRD DEGREE' HAS NO PLACE IN GEORGIA LAW," *AC*, Aug. 16, 1913, 10.

Claims in newspaper headlines were imprecise, as in *AG*, Apr. 29, 1913, extra no. 6, night ed., 1, for under the section titled "FRANK AND NEGRO ARE GIVEN 'THIRD DEGREE'," the paper explains further that "All the afternoon the police have been 'sweating' Leo M. Frank, superintendent of the factory where the girl worked, and putting through the 'third degree' Lee, the negro watchman at the factory." Another headline says "FACTORY HEAD FRANK AND WATCHMAN NEWT LEE ARE 'SWEATED' BY POLICE" (*AG*, Apr. 29, 1913, home ed., extra no. 5, 1), but the article cautions that "…Frank is *not under arrest*, that he was put under police guard for his own personal safety, and that there are no charges against him…" Clearly, "sweating"—like all else in apartheid America—was applied differently for Jews and Blacks. Nor has this police abuse ended: in 2015—a century after the lynching of Leo Frank—Chicago mayor Rahm Emanuel was forced to pay reparations to victims of a police commander named Jon Burge, who for decades ran a torture ring against suspects. See Michael E. Miller, "Cop accused of brutally torturing black suspects costs Chicago $5.5 million," *Washington Post*, Apr. 15, 2015, http://www.washingtonpost.com/news/morning-mix/wp/2015/04/15/closing-the-book-on-jon-burge-chicago-cop-accused-of-brutally-torturing-african-american-suspects/.

892 *AC*, May 22, 1913, 16.

893 *Brief*, 7. See the racist Sidney Ormond, "Bearing of Black and Lee Forms a Study in Contrast," *AC,* July 31, 1913, 4; Lindemann, *The Jew Accused*, 241. A gun is said to have been used, in "Shot Fired Near Lee May Break His Nerve," *AC*, Apr. 30, 1913, 14; "Use of Dictaphone on Frank and Negro Is Denied by Police," *AJ*, Apr. 30, 1913, last ed., 1. *AC,* Aug. 19, 1913, is Frank's final version of events on the murder day, including his "interrogation" of Lee. Also, Burton Rascoe, *The Case of Leo Frank: A Factual Review of One of the Most Sensational Murder Cases in Court Annals* (Girard, Kansas: Haldemann-Julius, 1947), 29. According to Frank (*Brief*, 217):

> Within a minute or two afterwards the detectives came back into the room, that is, detective Scott and detective Black, and then began questioning Newt Lee, and then it was that I had my first

initiation into the third degree of the Atlanta police department. The way that fellow [Detective John] Black cursed at that poor old negro, Newt Lee, was something awful. He shrieked at him, he hollered at him, he cursed him, and did everything but beat him. Then they took Newt Lee down to a cell and I went to my cot in the outer room.

894 "Rosser Makes Great Speech for the Defense," *AC,* Aug. 23, 1913, 2. Also, "Servant of Frank," *AC,* June 4, 1913, 1, 2; "Mary Phagan Murdered Within," *AC,* Aug. 2, 1913, 1; "Resume of Week's Evidence," *AC,* Aug. 3, 1913, 2; "Startling Testimony of Conley," *AC,* Aug. 10, 1913, 3; "Burns Expected to Return Today," Apr. 20, 1914, 10; *AI,* Mar. 12, 1914, 5.

895 "Suspicion Lifts From Frank," *AG*, Apr. 30, 1913, final ed., extra no. 8: "Additional clews *furnished by the head of the pencil factory* were responsible for the closing net around the negro watchman." Emphasis ours.

896 Lindemann, *The Jew Accused*, 241; "Stains of Blood," *AC,* May 8, 1913, 1; "Effort Will Be Made To Free Newt Lee," *AC,* July 4, 1913, 3; "Frank and Conley May Meet Today," *AC,* July 8, 1913, 1; "Frank Sentenced on Murder Charge to Hang Oct. 10," *AC,* Aug. 27, 1913, 1.

897 *AJ,* May 5, 1914; "Poison Plot Against Conley?" *NYT*, May 6, 1914.

898 "Dorsey Requests Conley's Release," *AC,* June 12, 1913, 3; "Conley Released, Then Rearrested," *AC,* June 14, 1913, 2; "The Leo Frank Case," *WM* 20, no. 3 (Jan. 1915): 150-51; *NYT,* Mar. 15, 1914, 10; MANGUM, 172; *WP*, June 2, 1913, 1. *AG*, June 13, 1913, outlines William M. Smith's charges against Frank's supporters:

> **Smith Sees Bias**. That deponent [Smith] talked with a man who, he is advised, is of Jewish extraction and who deponent believes is doing all he can reasonably to place the blame for this crime on his client (Conley), and who is desirous of seeing the defendant (Frank) cleared; and this man admitted to this deponent that he did visit the cell of said Conley and offered him sandwiches and promised whisky and however he specifically disclaimed his being the party who had threatened said Conley at a later hour and stated that the sandwiches and whisky were offered in good faith with no intention to harm Conley, that the identity of this party is known to deponent and can be given

the court upon request…

[….]

Conley Repeats Charges. Conley, in his affidavit, declared that during his stay in the county jail he was constantly being menaced by persons whom he suspected of the intention to poison him. …"[D]eponent was visited by a young man at one time who appeared to be of Jewish descent, who offered this deponent sandwiches to eat; that deponent did not eat the sandwiches, for fear of being poisoned; that late in the night, after the lights had been turned out, a man came to the cell of deponent and struck a match and looked in and asked deponent if he did not know he would be hanged; told deponent that he was telling a d----d lie on Frank, and would be hanged sure as h--l; asked deponent if he did not know he could shoot him in his cell, if he was a mind to do so; that on account of the darkness deponent was unable to find out who this was; that the only desire of deponent is that he be given protection and be in hands of sworn officers of the law and not turned over to any prisoner or to 'trusty turnkeys'…"

899 *AJ*, Aug. 6, 1913, last ed., 4; *NYT,* Mar. 15, 1914, 10. See *NYT,* Feb. 23, 1915, 9; *AJ,* Mar. 19, 1914. Judge Roan issued an order prohibiting all visitors to Conley's cell except by written permission from his attorney, William Smith. After his arrest, Conley was not permitted a change of clothing for nearly five weeks. See *AJ*, June 2, 1913.

900 Oney, "The Lynching of Leo Frank," 94; Britt Craig, "Detective Harry Scott's Hunch," *AC,* July 13, 1913, B7.

901 "In Dramatic Phrases Hooper Outlines Events Leading Up to and Following Death," *AC,* Aug. 22, 1913, 2.

902 "Trial of Leo Frank," *AC,* June 25, 1913, 16; "Conley Says He Helped Frank," *AC,* May 30, 1913, 1; *AC,* Aug. 8, 1913; *AC*, July 25, 1913, 2.

903 *AC,* May 30, 1913, 1; Oney, *ATDSR,* 138: Conley endured "the most ruthless grilling." See also *AC,* May 28, 1913, 1 ("a gruelling three-hour third degree at police headquarters"); *AG*, May 29, 1913, night ed., 1 (James Conley "was put through a gruelling third degree examination at police headquarters this afternoon"). A *Constitution* article read, "Your Loyalty Or [Your] Neck," in a blatant threat of lynching to force Newt Lee's confession.

904 "Minola McKnight Mysteriously Cut," *AC*, June 15, 1914,

5. Strangely, Oney uses the lexicon of a distant culture of slavery to describe McKnight in his 2003 book (p. 422): "the Negress refused to reveal her assailant's identity to the police."

905 "McKnight Badly Injured Trying to Slip into City Unnoticed by Detectives," *AC*, Mar. 15, 1914, 1.

906 "Methods of the Police are Attacked By Frank," *AJ*, Apr. 23, 1914, 2.

907 *AJ*, Mar. 19, 1914.

908 Steve Oney, lecture at the commemorative opening of The Breman Museum's special exhibition on the Leo Frank Case, Atlanta, Ga., Feb. 17, 2008, https://www.youtube.com/watch?v=gy1V6Crr0EQ.

909 *AC*, Aug. 23, 1913, 2, 3; *AJ*, Aug. 22, 1913; *AG*, Aug. 22, 1913, 1. Also Hertzberg, *Strangers*, 207; Golden, *A Little Girl Is Dead,* 183; Oney, *ATDSR*, 324. Golden presents the racism of Frank's defense at the same time that he decries the "prejudice" Frank's attorneys claimed was directed against their client. *A Little Girl Is Dead*, 181.

910 John D. Lawson, ed., *American State Trials,* vol. 10 (1918), 271.

911 *AJ,* Aug. 22, 1913, 10.

912 The lies of Leo Frank are in addition to the many, many glaring illegalities attributed to Frank's legal team, discussed herein.

913 By Frank's estimation Mary arrived at his office between 12:03 and 12:07 p.m. *Brief*, 186, 243, 210. Also, the National Pencil Company stenographer Hattie Hall left the factory office at "2 minutes past 12," and she "did not see any little girl come along about that time." See *Brief*, 102. And pencil plant employee Monteen Stover "was at the factory at five minutes after twelve on that day." She "went through [Mr. Frank's] first office into the second office," but "I didn't see or hear anybody in the building." Miss Stover "stayed there five minutes and left at ten minutes after twelve." *Brief*, 26: "I looked at the clock on my way up [the stairs to Mr. Frank's office], it was five minutes after twelve and it was ten minutes after twelve when I started out….The factory was still and quiet when I was there." According to Frank's unsigned statement made before Chief of Detectives N. A. Lanford and his attorney Luther Z. Rosser on Monday morning, April 28, 1913, "After the office boy and the stenographer left, this little girl, Mary Phagan, came in....She came in between 12:05 and 12:10, maybe 12:07, to get her pay envelope, her salary. I paid her and she went out of the office. I was in the inner office at my desk…" See Oney, *ATDSR*, 49-50, 655 note to p. 49; and *Brief*, 243. At the coroner's inquest Frank testified that Mary Phagan had arrived at his office "a little after 12 o'clock," or "5 minutes after twelve," or "shortly after 12 o'clock," or "[a]bout 12:10 or 12:05 o'clock." See *AC*, May 10, 1913, 1; *AC*, May 6, 1913, 2; "L.M. Frank's Complete Story of Where He Was and What He Did on Day of Mary Phagan Murder," *AJ*, May 6, 1913, 11. See also "Leo Frank Answers List of Questions Bearing On Points Made Against Him," *AC*, Mar. 9, 1914, 1, 10; *AG*, Apr. 28, 1913, afternoon ed., 3. *AG*, Aug. 22, 1913, 7: According to attorney Reuben Arnold, "Frank says she got there at about 12:07."

914 *Brief*, 243; *AC,* May 6, 1913, 2. Also, *AJ,* May 6, 1913, last ed., 11.

915 *Brief,* 187. Also, there is serious doubt that the noon whistle blew that day, it being a holiday; since the factory whistle was not automated, it would have required the action of a human being. See *Argument of Hugh Dorsey*, 79. The ADL's internal report explained Frank's mention of the whistle as "disingenuous in the extreme, and marked by a factual error that completed the case against him." DeWitt H. Roberts, "Anti-Semitism and the Leo M. Frank Case" (unpublished essay of the Anti-Defamation League, n.d.,

ca. 1953, SC-3576, American Jewish Archives, Cincinnati, OH), 15.

916 *Brief*, 26; *AC,* May 10, 1913; *AC*, Aug. 1, 1913, 2; *Pinkerton*, filed by H. Scott, May 3, 1913, 3.

917 *Brief*, 187.

918 *Brief*, xv (Defendant's Exhibit 61), contains a measured diagram of the second floor of the National Pencil Co. factory.

919 "Researchers Study 'Sidewalk Rage,' Seeking Insights on Anger's Origins and Coping Techniques," *Wall Street Journal,* Feb. 15, 2011, http://online.wsj.com/article/SB10001424052748703786804576138261177599114.html (retrieved April 23, 2014); *New York City Pedestrian Level of Service Study, Phase I*, April 2006, City of New York and NYC Department of City Planning, Transportation Division, http://www.nyc.gov/html/dcp/pdf/transportation/td_fullpedlosb.pdf. Tourists walk 3.79 feet per second; smokers, 4.17 feet per second; cellphone users, 4.20 feet per second; headphone listeners, 4.64 feet per second; large pedestrians, 3.74 feet per second; men, 4.42 feet per second; women, 4.10 feet per second; people with bags, 4.27 feet per second.

920 *Brief,* 187. Some even claimed that Monteen was too short to see over the safe door—but the shorter Mary Phagan had no problem finding Frank in his inner office. *AC,* May 6, 1913.

921 *AG*, May 5, 1913, night extra ed., 2.

922 Herbert G. Schiff, assistant superintendent of the National Pencil Co., makes a statement that is designed to cover for his boss (*Brief*, 92): "The safe door is always wide open while we are in the factory." But he also admits that strangers come in often: "Frequently we were interrupted by salesmen calling on us Saturday afternoon." *Brief*, 87. Also, *AJ*, Aug. 11, 1913.

923 *Brief*, 26.

924 See *AJ,* May 6, 1913, last ed., 11. Also *AG*, May 6, 1913, 2: "I heard a girl's voice as Mary was walking down the steps. I don't know what was said. I just heard a girl's voice talking."

925 *Brief*, 24, 187; *Argument of Hugh Dorsey*, 119-20.

926 "Third Man Brought," *AC,* May 6, 1913, 1. Frank also demonstrated a penchant for selective memory. See also "Factory Foreman Who Testified," *AC,* May 10, 1913, 13; Thomas E. Watson, "The Official Record in the Case of Leo Frank, A Jew Pervert," *WM* 21, no. 5 (Sept. 1915): 281.

927 "Third Man Brought," *AC,* May 6, 1913, 1; *AC*, May 7, 1913. Dorsey said that he had spoken with Lemmie Quinn "and asked him if anybody was paying him for his

testimony…"

928 *AG,* "Black Testifies Quinn Denied Visiting Factory," May 8, 1913, 4: "Q. What did Mr. Quinn say to you about his trip to factory Saturday? A. Mr. Quinn said he was not at the factory on the day of the murder. Q. How many times did he say it? A. Two or three times. I heard him tell Detective Starnes that he had not been there."

929 *AJ*, Aug. 14, 1913.

930 "Third Man Brought," *AC,* May 6, 1913, 1; *AJ*, Aug. 13, 1913, 5; *Brief*, 107.

931 *Brief*, 104.

932 *AG*, May 6, 1913, extra ed. Frank claimed to have heard the noon whistle blow, which, had it actually occurred, would have made a mistake of this sort (Frank's verbal slip at coroner's hearing) unlikely.

933 *Pinkerton*, filed by W.D. MacWorth, May 12, 1913, 25-26.

934 *Pinkerton*, filed by W.D. MacWorth, May 17, 1913, 32.

935 *AC,* May 6, 1913, 1, 2 (emphasis ours).

936 *Brief*, 174-220.

937 *Brief*, 126, 130.

938 *AG*, Aug. 11, 1913.

939 *AG*, May 6, 1913, 2.

940 *Brief*, 99. See *AJ*, Aug. 12, 1913, for coverage of accountant Joel Hunter's testimony.

941 *AJ,* May 6, 1913. *AC*, Aug. 2, 1913 (Frank's inquest testimony during a question-and-answer session mistakenly printed in an article about the *trial* testimony of several witnesses for the State): "On Friday night I told him [Newt Lee], after he got his money. I gave him the keys and I said, 'You had better come around early tomorrow, because I may go to the ball game;' and he came early because of that fact. I told him to be there by 4 o'clock, and he came twenty minutes to 4. I figured I would leave about 1, and would not come back; but it was so cold I didn't want to risk catching cold, and I came back to the factory as I usually do. He came in, and I said, 'Newt, you are early,' and he said, 'Yes, sir;'…"

942 *Brief*, 122-23 (Annie Hixon's testimony).

943 *Brief*, 187 (Frank's unsworn statement at trial), 126 (C. F. Ursenbach's testimony); "Commutation Hearing Before Gov. John M. Slaton," 111.

944 *AC,* May 6, 1913.

945 *Brief*, 86, 88, 98.

946 *AG*, Aug. 9 and 11, 1913; *AC,* Aug. 10 and 12, 1913; *Brief,* 95-96, 97. An odd exchange occurred at the inquest: "When did you work on the house books?" Frank answered, "Not on Saturday." See *AJ,* May 6, 1913. It is very likely that in anticipation of attending the ballgame

(and in anticipation of a meeting with Mary Phagan), Frank worked on and completed the books Friday.

947 *Brief*, 95-96. At the coroner's inquest, Schiff testified that the work could take between one-and-a-half and two hours. At the trial he claimed that timeframe to be a mistake. See *AG*, Aug. 9 and 11, 1913; *AC*, Aug. 10, 1913; *AC*, Aug. 12, 1913; also, *AG* Aug. 12, 1913 (stenographer Hattie Hall's testimony).

948 *Brief*, 181; *AG*, Aug. 19, 2013; "Leo Frank Wrote His Own Alibi," *NYT*, Aug. 22, 1915.

949 *Brief,* 122-23. Also, "Maid in Schiff Home Tells of Phone Message From Frank," *AC*, Aug. 16, 1913, 3, refers to her as "Emma Hill." *AJ*, Aug. 16, 1913, refers to her as "Emma Bibb."

950 *Brief*, 86. Ms. Beard was very likely pressured into making her first statement, just as was Frank's household cook Minola McKnight, and as were many others in the case. It is hard to fathom that an up-and-coming executive would receive *two* urgent calls from his boss demanding his immediate presence with critical data, and then ignore both of them. But if so, would not his longtime "servant," who actually heard the alleged urgency in the call, make sure he complied—lest she be held accountable? And given the urgency based on Schiff's having data required by Frank to complete the financial sheet, how does one explain that Schiff makes no effort or provision to get those financial documents to the factory, and neither Frank, nor Schiff, nor Mann makes arrangements for the data to be sent or picked up?

951 Schiff's maid cross-examined by Dorsey, in *AG*, Aug. 15, 1913, extra ed., 3.

952 *AJ*, Aug. 13, 1913, 5.

953 "Chronological Table of Frank's Actions on Day of Murder," *AC*, Aug. 22, 1913, 1.

954 Frank's unsworn trial statement, in *Brief*, 181.

955 *Brief*, 103.

956 The timeline actually lists the first call going to Schiff at 10:00 a.m. with the carefully ambiguous label "Telephones Schiff to come to office." The caller is not identified in the Frank timeline; no one takes credit for making this call (neither Frank nor Mann), and Emma Beard never testified to receiving it. Solicitor Dorsey pointed out this serious discrepancy in his closing argument, as recorded in *AJ*, Aug. 23, 1913, 1.

957 *AG*, May 6, 1913, 2.

958 *Brief*, 41, 246.

959 *Brief*, 227-28.

960 The Alfred Uhry stage play about the Frank case, *Parade*,

has a scene in which the "negro" characters, including Newt Lee, are portrayed in a nefarious light. Whilst performing a song titled "Rumblin' and Rollin,'" they express their resentment at racism, and resolve, in effect, to go along with Frank's "persecution." As with most of Uhry's ahistorical script, this theatrical storyline is pure fantasy. There is far more evidence, as with Leo Frank's two-hour "lunch" scenario, of Jewish collusion and purchased testimony on behalf of Frank.

961 *Argument of Hugh Dorsey*, 35-36.

962 "Daintily Dressed Girl Tells of Daily Routine of Factory," *AC*, July 31, 1913, 3.

963 Oney, *ATDSR,* 27, said that Frank "offered up a worrisomely complete list of reasons why he couldn't have known Mary Phagan…" Lindemann, *The Jew Accused*, 245: "Still further evidence, much more palpable and persuasive, pointed in Frank's direction."

964 "Girl Asked for Mary Phagan's Pay But Was Refused by Frank," *AC*, Aug. 3, 1913, 4. And in support of this is the word of Mary's direct supervisor Lemmie Quinn, who said that he had tried unsuccessfully to reach Mary by phone on Friday to let her know that payday would be a day earlier. So Mary was expected Saturday. See *AJ*, Apr. 28, 1913, last ed., 2.

965 *AJ,* May 6, 1913, last ed., 11.

966 *Brief*, 10, 32.

967 These accounts can be found in the trial *Brief*, 2-3, 10, 12, 13, 17, 18, 20-21, 23, 24, 32-38, 44, 55, 56, 71-72, 205.

968 *Arnold's Address*, 22.

969 *Brief*, 218.

970 *Brief*, between pages 252 and 253 (State's Exhibits Y & Z).

971 See "Counsel for Frank to Ask a Rehearing by Supreme Court," *AC*, Feb. 19, 1914, 1.

972 The enforcement of white supremacy required that Blacks be "educated" only to a level that enabled them to serve white people in menial roles. "Book-learning" for Blacks was seen as a sinister oddity, and educated men and women, except for clergy, were viewed with deep suspicion.

973 *AC*, Aug. 6, 1913, 2; *AC*, Aug. 5, 1913, 2. According to a *Georgian* reporter, Conley denied putting the notes next to the body. See *AG*, May 31, 1913, 2.

974 "Did Murderers Plan Cremation," *AC*, Apr. 30, 1913, 14; *(St. Petersburg, FL) Evening Independent*, Aug. 4 and 5, 1913; and *Pittsburgh Press*, Aug. 5, 1913, 1.

975 *Brief*, 8, 57, 72, 207: Frank says, he and Mr. Schiff "looked at those notes and tried to decipher them, but they were written exceedingly dim, and were very rambling and

incoherent, and neither of us could recognize the handwriting, nor get any sense out of them at all." It is noteworthy that in all of his testimony on the murder notes (*Brief*, 205, 206, 207, 215-16, 218), Leo Frank never explicitly denies writing them.

976 *Brief*, 57.

977 *Arnold's Address*, 31; *Brief*, 316. Testimony to the contrary is in *Brief*, 64, 73, 233, 234.

978 Document Examination Report by Linton A. Mohammed, PhD, Forensic Document Examiner, Sept. 18, 2012. At the time of this analysis he was president of the American Society of Questioned Document Examiners (ASQDE, http://www.asqde.org).

979 *Brief*, 57-58.

980 *AC*, Aug. 6, 1913, 2; Burton Rascoe, *The Case of Leo Frank: A Factual Review of One of the Most Sensational Murder Cases in Court Annals* (Girard, KS: Haldemann-Julius, 1947), 51-52.

981 "Lee, Dull and Ignorant, Calm Under Gruelling Cross Fire," *AC*, July 30, 1913, 2.

982 *Brief*, 60: "No, I didn't know Newt Lee. I heard them say there was a negro night watchman, but I never did know that he was a negro….I don't know what time the night watchman would come there to work." See "Did Frank's Lawyers Mismanage His Case?" *Jeffersonian*, Aug. 26, 1915, 3: "Rosser, by a needless question designated his own client as *the one*, of those two (Frank and Conley) who knew that Lee was *tall, slim, and black*. It was an awful blunder."

983 *Brief*, 202. This may be why some interpreted the murder notes to say "negro *fire*[man]" rather than "hire."

984 *Brief*, 57-58.

985 *Brief*, 9. Indeed, Conley said in court that if he did not return, Frank threatened to put the notes in the basement. See "Conley Continues To Withstand Fierce Attacks of Rosser," *AG*, Aug. 5, 1913, extra ed., 3.

986 Yitzchak Kerem, "The Settlement of Rhodian and Other Sephardic Jews in Montgomery and Atlanta in the Twentieth Century," *American Jewish History* 85, no. 4 (December 1997): 384.

987 Oney, *ATDSR,* 378, 379; Dinnerstein, *Leo Frank Case*, 90.

988 According to Lindemann, *The Jew Accused*, 241: "Handwriting experts called in on the case declared that the crude, barely literate notes left by the body were in Lee's handwriting…"

989 "Officer Tells About Discovery," *AC,* July 30, 1913, 3. According to a racist *Atlanta Constitution* reporter ("Three Witnesses…" July 30, 1913), Lee himself wanted this point

made very clear. The reporter recounted Lee's testimony: "They's tryin' er lay it on me….Dey mus' be tryin' to put hit off on me [*sic*]." In Lee's own actual words (*Brief*, 6-7, 9): "When I was in the basement one of the policemen read the note that they found. They read these words, 'The tall, black, slim negro did this, he will try to lay it on the night' and when they got to the word 'night' I said, 'They must be trying to put it off on me.' I didn't say, 'Boss, that's me.'"

990 Melnick, *Black–Jewish Relations,* 99. Phagan Kean, *The Murder*, 152, dispels the notion of "negro superstition." One of Frank's lawyers, in an appeal before Judge Leonard Roan for a new trial, suggested Frank had "very little knowledge of negroes"—a "patently false claim," says Melnick, "given his proximity to African-American workers in the factory and in his home." Jeffrey Melnick, "'The Night Witch Did It': Villainy and Narrative in the Leo Frank Case," *American Literary History* 12, no. 1/2 (Spring – Summer 2000): 122. Melnick quoting the *New York Age*'s James Weldon Johnson (p. 123):

> [I]t would be the most natural thing for a northerner living in the South, as did Frank, to become familiar with the various Negro superstitions. In fact, these superstitions have been given such wide circulation through the "Uncle Remus" stories and other mediums that there are northerners who never lived in the South who can glibly write in poetry and prose about "night witches" and "hants" and "conjure people."

991 Oney, *ATDSR,* 379.

992 "Negro Sweeper Tells the Story of Murder Notes," *AC,* May 29, 1913, 1.

993 Roberta Strauss Feuerlicht in *The Fate of the Jews: A People Torn Between Israeli Power and Jewish Ethics* (New York: Times Books, 1983), 190, writes: "In the 1930s...on certain corners of the Bronx there existed what was called the Bronx Slave Market. Black women gathered at 8 a.m., rain or shine, summer or winter, hoping to be hired by Bronx women to do housework for fifteen to thirty cents an hour. Most of these housewives were Jewish."

994 Indeed, the *Atlanta Constitution* had had on its staff as associate editor Joel Chandler Harris, inventor of the "Uncle Remus" tales, and other "dialect writers" were also employed by the paper. Harris-inspired "negro dialect" is essentially linguistic blackface, a tortured parody of the Black vernacular, the written folklore of white supremacy. See R. Bruce Bickley, "Joel Chandler Harris (1845-1908),"

New Georgia Encyclopedia, July 18, 2002, edited by *NGE* on Sept. 4, 2013, http://www.georgiaencyclopedia.org/articles/arts-culture/joel-chandler-harris-1845-1908; Robert Cochran, "Black Father: The Subversive Achievement of Joel Chandler Harris," *African American Review* 38, no. 1 (2004): 21-34; Kevin Young, *Grey Album: On the Blackness of Blackness* (Minneapolis, MN: Graywolf Press, 2012), 99.

Anyone who read any of the three Atlanta newspapers would have imbibed this race mockery daily. Of the many examples are these from the *Constitution*: "You're Getting Off Light, Says Harrison To Darkies," *AC,* Aug. 27, 1911, D3; "Just From Georgia: Frank L. Stanton," *AC,* May 10, 1914, B4; "Fired Up Wid Lub Of Gawd: Old Negro Shouts Hosannas," *AC,* Aug. 18, 1912, B6; "Clad in Kimona and Pajamas Carson Terrifies Darktown," *AC,* Feb. 18, 1912, 1. In "Northern" papers: "Negro Legislators," *NYT,* Feb. 8, 1903, 34; "A Virginia Mammy on Woman's Rights," *WP*, Aug. 22, 1900, 7.

995 Sidney Ormond, "Bearing of Black and Lee Forms a Study in Contrast," *AC,* July 31, 1913, 4. The Jewish managing editor of the *Atlanta Journal*, John S. Cohen, presented a similar article on Aug. 2, 1913, titled "Newt Lee Gets Hat; Now He's Considering What He Wants Next":

> And Newt Lee gets the hat.
>
> The darky who has been the stanchest witness yet examined at the Frank trial has but little more to wish for.
>
> First it was watermelon Newt wanted. With his very life in danger as he droned away the long hot days in the Fulton county Tower, Newt lifted up his voice and prayed for "dat juicy watermillion." And they gave him one.
>
> Then it was a "chaw of 'baca," his first request as he came down from the witness stand. Somebody gave him a plug and immediately there were a score who pressed forward with all varieties of cut and twist. Newt had enough 'bacca to keep his teeth in a state of perpetual motion.
>
> "Now ef I only had'r hat," declared Newt. "Dis nigger 'ud be happy."
>
> When they took Newt back to the Tower he got the hat. A lady who would not give her name called up the jailer Friday and asked about Lee. Could she

send him a hat? she asked. It was all right with the jailer.

The hat came, a monstrous felt creation that delighted Newt to the soul. He put it on his wooly head and his white teeth flashed. Then the smile faded. There was a far-away look in Newt's eyes.

He was thinking of what he wanted next.

996 "Grim Justice Pursues Mary Phagan's Slayer," *AC*, July 20, 1913.

997 Jeffrey Melnick, "Some Notes on the Erotics of 'Black–Jewish Relations'," *Shofar* 23, no. 4 (2005): 12; Jeffrey Melnick, *A Right to Sing the Blues: African Americans, Jews, and American Popular Song* (Cambridge, MA: Harvard Univ. Press, 1999), 108.

998 See *B'nai B'rith Magazine*, May 1925, 288. This issue (p. 200) also states that whites have a larger percentage of "higher intellectual persons" than the "colored races."

999 Norman Cohn, *Europe's Inner Demons: An Enquiry Inspired by the Great Witch-Hunt* (New York: New American Library, 1977), 168; Jeffrey Melnick, "'The Night Witch Did It': Villainy and Narrative in the Leo Frank Case," *American Literary History* 12, no. 1/2 (Spring – Summer 2000): 124. In Jewish folklore a *dybbuk* is the wandering soul of a dead person that enters the body of a living person and controls his or her behavior. See also Judith R. Baskin, ed., *The Cambridge Dictionary of Judaism and Jewish Culture* (New York: Cambridge Univ. Press, 2011), 139; Joseph Dan, introduction to *Spirit Possession in Judaism: Cases and Contexts from the Middle Ages to the Present*, ed. Matt Goldish (Detroit, MI: Wayne State Univ. Press, 2003), 27-40. Also, H. C. E. Midelfort, "The Devil and the German People: Reflections on the Popularity of Demon Possession in Sixteenth-Century Germany," *Religion and Culture in the Renaissance and Reformation, Sixteenth Century Essays and Studies* 11 (1989): 99-119; Tamar Alexander, "Theme and Genre: Relationships between Man and She-Demon in Jewish Folklore," *Jewish Folklore and Ethnology Review* 14, nos. 1-2 (1992): 56-61; Richard Dorson, ed., *American Negro Folktales* (1956; reprint, Greenwich: Fawcett, 1967), 236: "[W]itch beliefs follow closely the traditional English concepts." Referenced in Melnick, "'The Night Witch Did It'," 124.

1000 Oney, *ATDSR,* 412-13; *AJ,* May 4, 1914, 1. On the factory's insurance policy requirements, see also *Brief*, 30, 33, 97.

1001 Oney, *ATDSR,* 413; *AC,* July 30, 1913. Leonard

Dinnerstein, "The Fate of Leo Frank: Victim of Anti-Semitism," *American Heritage* 47, no. 6 (Oct. 1996), did not believe he was referring to himself when he wrote of the case: "As with all folktales, some details were embellished, others were dropped." Years later Alexander said that "it is hard to believe they [the murder notes] were ever dictated by a white man." Golden, *A Little Girl Is Dead,* 201.

1002 *AJ*, Feb. 26, 1914, 1.

1003 Jeffrey Melnick, "The Complicated Story of Leo Frank's Trial & Lynching: Black-Jewish Relations on Trial," lecture, Jacob Rader Marcus Center of the American Jewish Archives, Cincinnati, OH, May 4, 2010, http://americanjewisharchives.org/education/videos.php.

1004 "In Dramatic Phrases Hooper Outlines Events Leading Up to and Following Death of Girl," *AC,* Aug. 22, 1913, 2; *AJ,* Apr. 29, 1913; *AJ,* July 31, 1913. In fact, Rosser was still promoting Lee's guilt in his closing argument: "I believe he knows more than he told." See "Rosser Makes Great Speech for the Defense," *AC*, Aug. 23, 1913, 2.

1005 *AJ*, May 30, 1913, 1. See *AC*, May 31, 1913, 2:

He said he was going to send my writing with a letter to his mother, and that if I was a good boy she would send him something. "My people are rich," he said, "why should I hang." That made twice he said "why should I hang?"

1006 *AJ*, May 26, 1913, 1.

1007 *AJ*, May 28, 1913.

1008 *AG*, May 31, 1913, 2.

1009 *AC,* May 8, 1913, 1. Also, according to a *Constitution* report, F. M. Berry, "assistant cashier of the Fourth National bank, and handwriting expert," said that "the script in the mysterious missives resembled only slightly that of the writing of the suspected watchman" and that "in my opinion" both notes were written by the same person." *AC,* May 1, 1913, 1. Another handwriting expert, Albert S. Osborne, concluded it was his belief that the notes were written "at the white man's supervision," but two years later he reversed that assessment. See "Clemency Protest Is Filed by Dorsey," *AC*, May 27, 1915, 1.

1010 Burton Rascoe, *The Case of Leo Frank: A Factual Review of One of the Most Sensational Murder Cases in Court Annals* (Girard, KS: Haldemann-Julius, 1947), 51-52.

1011 *Brief*, 207.

1012 George M. Stroud, *A Sketch of the Laws Relating to Slavery in the Several States of the United States of America* (Philadelphia, 1856), 141. Also at the discretion of the court, apparently, was the fate of the "slave, negro or free person of colour" who was discovered to have the ability to read.

1013 Steve Oney, "And The Dead Shall Rise," *Georgia Magazine*, University of Georgia, 2004, http://www.uga.edu/gm/304/FeatOney.html.

1014 It is interesting to note that Svengali, the fictional character in George du Maurier's 1894 novel *Trilby,* is a Jewish villain, a masterly musician, and a sinister hypnotist. The novel is considered "anti-Semitic."

1015 Steve Oney, "*And the Dead Shall Rise*: An Overview," *Southern Cultures*, Winter 2005, 38; Oney, *ATDSR*, 127-28. Oney has no evidence to conclude Conley's attendance was for "two years."

1016 Oney, "*ATDSR*: An Overview," 38.

1017 *AG*, Aug. 4, 1913, 4.

1018 "Conley's Story In Detail; Women Barred By Judge," *AG*, Aug. 4, 1913, final extra ed., 4.

1019 *Brief*, 59.

1020 "Crowded Schools," *AC*, Sept. 28, 1894, 7. About twenty years later in 1915, Mitchell Street School had 521 seats for its 912 enrolled pupils. One white parent described Oney's "colored institutions": "Some of these schools were built during reconstruction days and they are so old, so filthy, so unsanitary and so many flies infest them that it is hard to comprehend how a child, no matter what color, can live nine months in such environment." See "Atlanta Mothers Score Conditions In Public Schools," *AC*, Mar. 19, 1915. Within two years of this report a survey found that 11 of the 15 "negro schools" were "unfit for human habitation." The survey recommended that the schools be immediately evacuated.

1021 Edward R. Carter, *The Black Side: A Partial History of the Business, Religious and Educational Side of the Negro in Atlanta, Ga.* (1894), 239-40.

1022 *AC*, Feb. 13, 1890, 5. See also David N. Plank and Marcia Turner, "Changing Patterns in Black School Politics: Atlanta, 1872-1973," *American Journal of Education* 95, no. 4 (Aug. 1987): 590-91. See the *Twenty-Seventh Annual Report of the Board of Education, Atlanta, Ga.* (1898), 20; Hoke Smith's March 17, 1900, "President's Annual Report" to the Mayor and General Council for the City of Atlanta: "It is safe to say that one-half of the negro children of school age, who desire to attend school, have no opportunity to do so on account of the want of school room…"

1023 Clint Williams, "Leo Frank killed Mary Phagan, says grand-niece," *Atlanta Journal-Constitution*, Jan. 6, 1999.

1024 Paul E. Peterson, *The Politics of School Reform, 1870-1940* (Chicago: Univ. of Chicago Press, 1985), 96-100.

1025 *Brief*, 281; "Statement of James Conley, of Atlanta, Ga., made to John R. Black and H.S. [Harry Scott] at Police Barracks, Atlanta, Ga., on Sunday, May 18th, 1913," *Pinkerton*, 34.

1026 *Brief*, 58, 74.

1027 Document Examination Report by Linton A. Mohammed, PhD, Forensic Document Examiner, Sept. 18, 2012. At the time of this analysis he was president of the American Society of Questioned Document Examiners (ASQDE, http://www.asqde.org).

1028 Oney, *ATDSR*, 128.

1029 *The Secret Relationship*, 2:28, 37, 108-9, 113-14, 116, 131, 281, 297, 343.

1030 Some suggested this may be "negro fire," as in fireman. There was a Black fireman employed at the pencil factory who would have been stationed in the basement.

1031 The original appears to be the word "land," but it is often taken to be the word "laid."

1032 "Seek Clews in Queer Words in Odd Notes," *AG*, April 29, 1913.

1033 *AJ*, April 30, 1913, 1.

1034 *Brief*, 174-220.

1035 *AG*, May 11, 1913, 2A.

1036 Jeffrey Melnick, "The Complicated Story of Leo Frank's Trial & Lynching: Black–Jewish Relations on Trial," lecture, Jacob Rader Marcus Center of the American Jewish Archives, Cincinnati, OH, May 4, 2010, http://americanjewisharchives.org/education/videos.php. Reference to minstrelsy at 69 minutes, 20 seconds, and again at 71 minutes,15 seconds.

1037 The term *Jim Crow* is the name of a highly popular minstrel show character invented around 1828 by Thomas "Daddy" Rice, a white entertainer who donned blackface to ridicule Black culture. David Carlyon, *Dan Rice: The Most Famous Man You've Never Heard of* (New York: Public Affairs, 2001), 46. A popular definition: "Minstrel shows lampooned black people as dim-witted, lazy, buffoonish, superstitious, happy-go-lucky, and musical." See "Minstrel Show," *Wikipedia*, December 28, 2014, http://en.wikipedia.org/wiki/Minstrel_show.

1038 Michael Alexander, *Jazz Age Jews* (Princeton, NJ: Princeton Univ. Press, 2001), 135.

1039 Jeffrey Melnick, quoting Henry Alexander, one of Frank's numerous defense attorneys, in "'The Night Witch Did It': Villainy and Narrative in the Leo Frank Case," *American Literary History*12, no. 1/2 (Spring – Summer 2000), 122: "although the author of the murder notes had made many spelling errors, he had not made any in

pronunciation." See also Dinnerstein, *Leo Frank Case* (1968), 87.

1040 Silent letters are letters that appear in a word without affecting any of its phonemes (speech sounds or basic units of spoken language or sets of basic sounds). When asked under oath whether "cat" was spelled with a "*c"* or a "*k*," Conley answered "*k*."

1041 The *th* in initial position becomes "d" (as in *dis, dey*); in medial position *th* becomes "v" (as in *brother* to *brovva*); final position *th* becomes "f" (as in *with* to *wif*).

1042 "In written English…the 26 letters of the alphabet comprise 5 vowels and 21 consonants. In spoken English, there are 20 vowels and 24 consonants. It is this discrepancy, of course, which underlies the complexity of English spelling." David Crystal, *How Language Works* (Woodstock, NY: Overlook Press, 2006).

1043 Testimony to this effect is in *Brief*, 173, 178ff.

1044 *Brief*, 198, 201, 213, 294.

1045 Frank's letter to his uncle (*Brief*, 294) contained a strange sentence that prosecutors found telling: "It is too short a time since you left for anything startling to have developed down here." They suggested that the use of the term "startling" was the subconscious confession of a guilty mind. *Argument of Hugh Dorsey*, 51. The next sentence might also be revealing: "The opera has Atlanta in its grip, but that ends today." *Tosca,* by Giacomo Puccini, was playing in Atlanta, and it contains depictions of torture, murder, and suicide—all elements of the tragic situation in which Frank found himself. More "startling," however, is Frank's revealing use of language in his testimony before the coroner's inquest: "Q. Where did she [Mary Phagan] go when she left the office? A. I heard her footsteps dying away." See *AG*, May 6, 1913, extra ed., 2.

1046 Oney, *ATDSR*, 145-47. Also, *AC,* Mar. 25, 1914: Smith's "retainers were officials of a publishing concern in Atlant[a]."

1047 Oney similarly deemed Frank's lawyer Henry Alexander "a student of [Black] expressions and folklore."

1048 Oney, *ATDSR,* 431, 433.

1049 *NYT,* Aug. 22, 1915, SM5; Dec. 27, 1914; Dec. 6, 1914; Leo M. Frank, "I Am Not Guilty," *Jewish Criterion* (Pittsburg, Pa.), Aug. 14, 1914, 6; *AJ,* Aug. 22, 1913, last ed., 5, 11; "The Press on the Frank Case," *AI,* Dec. 24, 1914, 1. Also, *Decision by Governor Slaton*, 19-20.

1050 *Brief*, 72-73. This dehumanizing practice was part of the racist management system established under factory superintendent Leo Frank. The books that discuss the Leo

Frank case ignore the pencil factory's Jim Crow restrictions in order to present Conley as a drunken savage. In fact, his having to make do as best he could is only evidence of the savagery of the factory's policy makers.

1051 *Brief*, 43.

1052 *Brief*, 15.

1053 The Anti-Defamation League's attorney Charles Wittenstein referred to it that way. The ADL considers it "[t]he crucial evidence." See Frey and Thompson, *The Silent,* 155.

1054 "Whole Frank Case Reviewed in Slaton's Statement," *AC*, June 22, 1915, 4; *Brief,* 15*,* 43*,* 72-73.

1055 *Brief*, 43; *AG,* Apr. 30, 1913.

1056 *Brief*, 9.

1057 *Brief*, 235, 10, 24. Dorsey argued in his closing that if Mary's body had been dropped through the hatchway, there would have been no need to drag the body from the foot of the ladder—where many boxes and debris would have concealed it—to the location where it was found near the boiler. See *AG*, Aug. 25, 1913, 2.

1058 See STATE'S EXHIBIT I, in *Brief*, 246. At trial Holloway changed his clear and firm statement to one that synchronized with Frank's alibi. See *Brief*, 29-30.

1059 Phagan Kean, *The Murder*, 217.

1060 Oney, *ATDSR*, 30; *Brief*, 43; "Policeman Says Body Was Dragged From Elevator," *AG,* Apr. 30, 1913, final ed., 4; also, "Split Court Denies New Trial to Frank," *NYT*, Feb. 18, 1914, 3.

1061 *Brief,* 43.

1062 *Brief*, 15, 56, 72; *AC*, May 9, 1913, 1; MANGUM, 126, 151.

1063 *Brief*, 187.

1064 Dinnerstein, *Leo Frank Case,* 57, 58.

1065 MANGUM, 126, 151; also Oney, *ATDSR*, 273.

1066 Oney, *ATDSR,* 414-15; "FRANK'S FRIENDS WILL TRY TO GET CONLEY TO CONFESS," *AJ*, Nov. 10, 1913, 3; *AJ,* May 4, 1914.

1067 Letter from "Colored" man to Leo Frank, dated April 20, 1915, Frank Trial Collection. This can only be the work of the white *niggerologists* employed in the concocting of the infamous Carter letters.

1068 *AC,* July 11, 1913, 2; *AC,* July 25, 1913, 12; "Mincey Affidavit Is Denied by Conley," *AC,* Aug. 6, 1913, 2.

1069 "Conley Not Right Man, Says Mincey," *AC*, July 11, 1913, 2; Golden, *A Little Girl Is Dead,* 135, 178.

1070 *NYT*, Jan. 3, 1925, 13.

1071 *AJ,* Nov. 10, 1913.

1072 *AJ,* Mar. 11, 1914; *Jeffersonian*, May 25, 1916, 7.

1073 *AJ,* Mar. 12, 1914, 1.

1074 Steve Oney, "The Lynching of Leo Frank," *Esquire*, Sept. 1985, 104; Phagan Kean, *The Murder*, 279; Dinnerstein, *Leo Frank Case*, 28-29; *AG,* July 14, 1913, and July 10, 1913; *AG,* Aug. 10, 1913; *AC,* June 7, 1913, 9; *AC,* May 5, 1914, 10.

1075 Charles Reznikoff, ed., *Louis Marshall, Champion of Liberty: Selected Papers and Addresses,* vol. 1 (Philadelphia: Jewish Publication Society of America, 1957), 317.

1076 Golden, *A Little Girl Is Dead*, 312.

1077 See his biographical sketch of Leo M. Frank in *Saga of American Jewry, 1865-1914* (New York: Arco, 1959), 372.

1078 Phagan Kean, *The Murder*, 279.

1079 Frey and Thompson, *The Silent*, 151.

1080 "Frank Not Guilty, Believes Conley's Lawyer," *AC,* Oct. 3, 1914. Smith's tale is reworked in a book by Allen Lumpkin Henson, *Confessions of a Criminal Lawyer* (New York: Vantage Press, 1959), 63-66. According to Henson's *fifth-person* account, Conley admits the whole sordid episode of drunken negro murder to his attorney Smith, who told Leonard S. Roan, who told a Judge Frederick C. Foster, who told Henson, who tells the reader. When first published in 1959—46 years after the trial—none of the living principals, including Smith, would confirm the tale. Edgar Hutchinson Johnson, "The Leo Frank Case" (master's thesis, Florida State Univ., 1966), 116-19.

1081 Dershowitz, *America on Trial,* 223.

1082 Had Smith used the term "the Jew," his bias would have been self-evident. "Frank Declared Innocent: Conley's Attorney Declares the Negro Guilty," *AI*, Oct. 8, 1914, 4; *NYT,* Oct. 4, 1914. "William Smith Tells Why His Opinion Has Changed as to Guilt of Leo Frank," *AC,* Oct. 4, 1914, 1: "Mr. Smith took pains to state to reporters that Conley had made no damaging admission, and that nothing the negro had secretly said had influenced his new opinion."

1083 "William Smith Tells Why His Opinion Has Changed As to Guilt of Leo Frank," *AC,* Oct. 4, 1914. Melnick, *Black–Jewish Relations,* 93, 107, calls Smith a "traitorous lawyer." Also Frey and Thompson, *The Silent,* 58-59.

1084 "Frank Declared Innocent: Conley's Attorney Declares the Negro Guilty," *AI*, Oct. 8, 1914, 4. See also a further courtroom unraveling of the Burns Agency debacle in "Burns Men Deny Bribing Ragsdale," *NYT*, Jan. 31, 1915, 7.

1085 *NYT,* Apr. 27, 1914, 9; Oct. 8, 1914, 9; Oct. 15, 1914, 1, 5.

1086 See *AC,* Mar. 21, 1914. Smith mirrors in substance, tenor, and tone the commentary by Tom Watson on Burns's activities performed on Frank's behalf.

1087 See "Dorsey Calls C.W. Burke and Other Investigators for Leo Frank to Court," *AC*, May 3, 1914, 16. Evidence of the workings of Tedder and Smith in "Burns Men Deny Bribing Ragsdale," *NYT*, Jan. 31, 1915, 7.

1088 "Grand Jury Meets to Indict Conley," *AC*, July 19, 1913, 2.

1089 *AJ,* Mar. 25, 1914; Oney, *ATDSR,* 145. Dinnerstein, *The Leo Frank Case,* 114, doesn't mention that Smith was paid by Hearst. "Smith Is Giving His Service Free to James Conley," *AC,* Mar. 25, 1914, 1. Also, see Lindemann, *The Jew Accused*, 247-48; Cruikshank and Schultz, *The Man Who Sold America*, 139. See Albert D. Lasker Collection, Charles Deering McCormick Library of Special Collections, Northwestern Univ. Library, Evanston, IL.

1090 "William Smith Tells Why His Opinion Has Changed as to Guilt of Leo Frank," *AC,* Oct. 4, 1914, 1.

1091 Oney, *ATDSR,* 610-11. Smith is said to have eventually "made a fortune in real estate" in New York. See Henson, *Confessions of a Criminal Lawyer*, 75.

1092 Yet again, a written document of dubious and mysterious origin appears to provide some exoneration for Frank, such as Judge Roan's deathbed letter, the Annie Maud Carter letters, Frank's letter to his uncle, Newt Lee's fraudulent timeslip, Burns's many forged affidavits, and the all-important murder notes.

1093 Haas to Golden, April 2, 1965, Golden Papers.

1094 *Brief*, 110.

1095 *AJ,* May 12, 1913.

1096 *Brief*, 246-47 (State's Exhibit J).

1097 At trial as a witness sworn for the defendant, McKnight denied her sworn statement. *Brief*, 110; *Argument of Hugh Dorsey*, 58, 91-95.

1098 *AJ*, Feb. 6, 1914. *Brief*, 110-111: "I signed it to get out of jail, because they said they would not let me out." Albert McKnight swore on January 9, 1914—*five months after the verdict*—that his boss R.L. Craven concocted the story in a scheme to collect the $1,000 reward offered by the city (reward details, *AJ,* Feb. 21, 1914). McKnight specifically denied that the prosecution had any role in the scheme. He was later found badly injured in the "colored infirm[a]ry." See *AJ,* Mar. 15, 1914, 1. See *AC,* Apr. 19, 1914, 1: "McKnight also stated that Minola McKnight, his wife… had told him after the trial that the affidavit she had signed…was true." He then confirmed that his testimony at

trial was true and testified to the fact that his affidavit to the contrary was false.

He declares he signed his repudiation affidavit in order to "get rid of" C. W. Burke, a private detective attached to the office of Luther Z. Rosser, senior member of the Leo Frank case.…He told the chief that he had been "pestered unmercifully" since having signed the repudiating document, and that he was so tired of it all that he was perfectly willing to go to jail and stay indefinitely….Chief Beavers stated to a *Constitution* reporter last night that McKnight could remain at police headquarters just as long as the negro felt that he needed protection.

1099 See for instance, Premilla Nadasen, *Household Workers Unite: The Untold Story of African American Women Who Built a Movement* (Boston: Beacon Press, 2015), 31.

1100 *Brief*, 41-42; "State Witness Repudiates Testimony Against Frank," *AC*, Feb. 22, 1914, 1.

1101 *Brief*, 129. We should be reminded here that Leo Frank's own weekly pay was about $38, plus profits, and the Seligs were also well-heeled business owners. Oney, *ATDSR*, 10, 81; *Atlanta City Directory* (1905).

1102 "Minola McKnight Mysteriously Cut: Witness in the Frank Case Refuses to Tell How She was Injured," *AC*, June 15, 1914, 5.

1103 "Leo Frank's Plea for Commutation to be Heard Today," *AC,* May 31, 1915, 1.

1104 "Leo Frank Appeals To Supreme Court," *AC*, Nov. 2, 1913, D6; Phagan Kean, *The Murder*, 150.

1105 Leonard Dinnerstein, "Leo M. Frank and the American Jewish Community," in *Strangers and Neighbors: Relations between Blacks and Jews in the United States,* eds. Maurianne Adams and John Bracey (Amherst: Univ. of Mass. Press, 1999), 273.

1106 Phagan Kean, *The Murder*, 162-63, 220-21; Dinnerstein, *Leo Frank Case*, 121.

1107 Thomas E. Watson, "The Old Paths—And the New Paths Taken By the Frank Case," *Jeffersonian,* June 24, 1915, 2.

1108 "Roan's" letter is reprinted in Lucian Lamar Knight, *A Standard History of Georgia and Georgians*, vol. 2 (Chicago: Lewis, 1917), 1166-67. See *Jeffersonian*, July 1, 1915, 9.

1109 Lindemann, *The Jew Accused*, 257.

1110 Howard Simons, *Jewish Times: Voices of the American Jewish Experience* (Boston: Houghton Mifflin, 1988), 24-25.

1111 *AC,* June 15, 1915, 4: Solicitor Dorsey registered his suspicion: "No envelope has been shown in which the letter came to its recipients, and I am aware that it was

procured…at the personal instigation of an Atlanta attorney whom I can name, and who went to the sanitarium in which the judge was confined to importune him to write the missive…"

1112 Lasker, interview, 5. It must be emphatically noted that neither Lasker nor Frank partisans have ever produced evidence of "perjured stuff" from "the other side."

1113 "Mob's Own Story," *AC,* Aug. 18, 1915, 1.

1114 Charles Reznikoff, ed., *Louis Marshall, Champion of Liberty: Selected Papers and Addresses,* vol. 1 (Philadelphia: Jewish Publication Society of America, 1957), 320; "Only 3 Lynched Frank," *WP*, Sept. 5, 1915, 3.

1115 Melissa Fay Greene, *The Temple Bombing* (Reading, MA: Addison-Wesley, 1996), 74; Dinnerstein, *Leo Frank Case,* 140-41. Greene makes the following declaration: "I have tried to combine serious and honorable journalistic and historical research with love of language; to create works of literary richness, pleasing to the senses, gripping to the intellect, yet reliable and true. I believe in the power of words to penetrate deeply and subtly into real past worlds and events; I disdain the use of words to distort, conceal, or rearrange when performed in the name of nonfiction." See "Melissa Fay Greene (b. 1952)," *New Georgia Encyclopedia*, Aug. 23, 2013, http://www.georgiaencyclopedia.org/articles/arts-culture/melissa-fay-greene-b-1952.

1116 Oney, "The Lynching of Leo Frank," 92; Oney, *ATDSR,* 563-64; Golden, *A Little Girl Is Dead,* 292. Inexplicably, and citing no new source, Steve Oney brings back his 1985 claim in an article posted on May 2, 2015, in the *Daily Beast*, titled "America's Only Anti-Semitic Lynching," http://www.thedailybeast.com/articles/2015/05/02/america-s-only-anti-semitic-lynching.html.

1117 "Frank Virtually Confessed; Ceased to Claim Innocence," *Jeffersonian*, Aug. 28, 1915, 1; *Jeffersonian*, Sept. 30, 1915, 6. Also, see "Three Statements Made by Leo Frank Just Before He was Executed," *Jeffersonian*, Sept. 16, 1915, 6. The *Georgian* reported a rumor that Frank did confess: "The other rumor implied a full confession, couched in the simple phrase, 'The nigger told it all.'" "Doomed Man Asked to be Allowed to Write to Wife As Last Act," *AG*, Aug. 18, 1915, 1.

1118 O.B. Keeler, "Frank's Wedding Ring is Returned to Family Through the *Georgian*," *AG,* Aug. 19, 1915, 1.

1119 See *AC*, May 8, 1913, 2: "Another rumor is that… photographic plates were made of the fingerprints on the throat."

1120 See his book *To Number Our Days* (1964), 237-38.

1121 Dershowitz, *America on Trial,* 222-25. Oney speaks of secret files containing "damaging" information "never made public" and accessible only to a few. *ATDSR,* 75, 618, 702 (note to page 618). See also Golden, *A Little Girl Is Dead*, 53-54, 256; Dinnerstein, *Leo Frank Case*, 158. Max F. Goldstein of Atlanta was the senior member of the law firm Powell, Goldstein, Frazer & Murphy, and Arthur G. Powell had previously represented Frank's hired detectives of the William J. Burns Agency against perjury and other serious charges. Goldstein wrote: "I accept full responsibility for advising Judge Powell to destroy the memorandum because, with the state of public feeling, no one would have believed the truth of it and it would have merely resulted in renewing the agitation which, by that time, had died down considerably." See Irving M. Engel to Hugo Black, Jan. 28, 1965, and Goldstein to Engel, Aug. 12, 1963, Golden Papers. Brandeis University library director Louis Schreiber was assembling a Leo Frank collection and told Harry Golden that the Burns Detective Agency and Albert Lasker had destroyed their files on the case. See Schreiber to Golden, Sept. 15, 1961, Golden Papers.

1122 On "100 Years After: Leo Frank Case Still," *One On One With Steve Goss,* Sept. 30, 2013, WABE 90.1FM, http://wabe.org/post/100-years-after-leo-frank-case-still-raises-questions.

1123 "Application for Posthumous Pardon for Leo Frank: Before the State Board of Pardons and Paroles of the State of Georgia," Jan. 4, 1983 (hereafter cited as "Application for Posthumous Pardon").

1124 "Georgia Pardons Victim 70 Years After Lynching," *NYT*, Mar. 12, 1986, A16; Phagan Kean, *The Murder*, 315.

1125 "Decision in Response to Application for Posthumous Pardon For Leo M. Frank," undated letter (ca. December 22, 1983), signed by Mobley Howell, chairman, Georgia State Board of Pardons and Paroles (hereafter cited as "Decision to Deny Posthumous Pardon").

1126 According to the Georgia State Board of Pardons and Paroles (http://oldweb.pap.state.ga.us/other_forms_clemency.htm):

> A pardon may be granted in two instances: (a) A pardon may be granted to a person who proves his innocence of the crime for which he was convicted under Georgia law. Newly available evidence proving the person's complete justification or non-guilt may be the basis for granting a pardon….(b) A pardon which does not imply innocence may be

> granted to an applicant convicted under Georgia law who has completed his full sentence obligation, including serving any probated sentence and paying any fine, and who has thereafter completed five years without any criminal involvement…

1127 Schwartz's account of his role is in the *Jewish Times: Voices of the American Jewish Experience,* by Howard Simons (Boston: Houghton Mifflin, 1988), 18-31; Frey and Thompson, *The Silent,* 148-57.

1128 Alonzo Mann was born August 8, 1898, and died March 19, 1985, in Bristol, Virginia.

1129 "In the Matter of the Posthumous Pardon Application for Leo Frank: Videotaped Testimony of Alonzo Mann" (transcript, Brown Reporting, Inc., Atlanta, Nov. 10, 1982), 29 (hereafter cited as "Videotaped Testimony of Alonzo Mann"). "Application for Posthumous Pardon," 7, refers to two separate tests that, it claims, Mann passed "impressively." The 14-page pardon application is filled with at least twenty errors, omissions, and pure falsifications.

1130 Pursuant to Official Code of Georgia Annotated (O.C.G.A.) 42-9-53(c). "Under the Georgia Open Records Act (ORA), all public records are available for inspection and copying unless they are specifically exempted from disclosure under the law." "Open Records Request," State Board of Pardons and Paroles, http://pap.georgia.gov/open-records-request.

1131 Steve Oney, "The Lynching of Leo Frank," *Esquire*, Sept. 1985, 104.

1132 *Brief*, 123.

1133 Oney, *ATDSR*, 645. Curiously, in 2015 Oney seems to reverse himself, claiming that "Mann's statement was the strongest evidence yet produced." See "America's Only Anti-Semitic Lynching," May 2, 2015, http://www.thedailybeast.com/articles/2015/05/02/america-s-only-anti-semitic-lynching.html.

1134 *AJ,* Aug. 12, 1913, 5; "Videotaped Testimony of Alonzo Mann," 16.

1135 "Affidavit: Statement of Alonzo Mann," *Tennessean*, Mar. 7, 1982 (hereafter cited as "Statement of Alonzo Mann," *Tennessean*). Mann was asked specifically whether the jury could hear those taunts, and he replied, "No, inside the courtroom was quiet." "Videotaped Testimony of Alonzo Mann," 68.

1136 "Videotaped Testimony of Alonzo Mann," 47. Mann later claims that despite his alleged fear, "I stayed around the courthouse several times and heard different people talk." Ibid., 64.

1137 Simons, *Jewish Times*, 29.

1138 Phagan Kean, *The Murder*, 249. Conley said he arrived at the factory at 8:30, met Leo Frank at the door, and left, returning with Leo Frank again at 11:05 a.m.

1139 Mann is very clear in his 1913 testimony (see *Brief*, 123) that "I left the factory at half past eleven on April 26th"—and never returned. "Statement of Alonzo Mann," *Tennessean*; Phagan Kean, *The Murder*, 251-52.

1140 "Statement of Alonzo Mann," *Tennessean*; Phagan Kean, *The Murder*, 250.

1141 *Brief*, 233.

1142 *Brief*, 234.

1143 *Brief*, 97. Black men were victims of "law enforcement" sweeps, which took place when free labor was needed. It was a post-emancipation strategy to extend Black slavery. Blacks were sentenced to chain-gang labor when they could not pay the unjust fines. The prisoner could often be freed in exchange for payment of the fine. See Douglas A. Blackmon, *Slavery by Another Name: The Re-Enslavement of Black People in America from the Civil War to World War II* (New York: Doubleday, 2008).

1144 Drawing credited to Pat Mitchell, *Tennessean*, Mar. 7, 1982.

1145 *Brief*, 43; *AG,* Apr. 30, 1913.

1146 "Videotaped Testimony of Alonzo Mann," 73.

1147 Attorneys for the Jewish organizations seeking a pardon for Frank in 1983—Anti-Defamation League, American Jewish Committee, Atlanta Jewish Federation—acknowledge that Phagan had a violent struggle with her attacker, which must have occurred on the stairs. See "Application for Posthumous Pardon," 1.

1148 Mann later appears to realize the gaffe and tries to reestablish the language of the affidavit, but not before his honesty leaks out.

1149 "Videotaped Testimony of Alonzo Mann," 88. According to Conley, "I was afraid if I didn't do what he told me—him being white and my boss, that I might get hanged." See Phagan Kean, *The Murder*, 29. Also, *Brief,* 57: "I was willing to do anything to help Mr. Frank because he was a white man and my superintendent."

1150 Emphasis ours. Simons, *Jewish Times*, 28.

1151 It should be made clear that Mann's only sworn testimony is in fact preserved "for all time" in the *Brief of Evidence*, 123.

1152 "Videotaped Testimony of Alonzo Mann," 9.

1153 Ibid., 19, 21, 22.

1154 Ibid., 26.

1155 Ibid., 32.
1156 Ibid., 42.
1157 Ibid., 61.
1158 Ibid., 32-33.
1159 "Statement of Alonzo Mann," *Tennessean.*
1160 *Brief*, 119. Conley denies that this alleged incident ever occurred. See *Brief*, 73.
1161 "Statement of Alonzo Mann," *Tennessean.*
1162 *Brief*, 30.
1163 "Third Man Brought Into Phagan Mystery By Frank's Evidence," *AC*, May 6, 1913, 1.
1164 Emphasis ours. *Brief,* 13. Within 48 hours of the murder Frank told the Chief of Detectives: "The office boy and the stenographer were in the office with me until noon. They left about 12 or a little after." *Brief*, 243, 102; *Argument of Hugh Dorsey*, 79.
1165 *Brief*, 102.
1166 "Leo Frank Wrote His Own Alibi," *NYT*, Aug. 22, 1915. Frank is "positive" about Miss Hall's departure time, at the coroner's inquest, according to *AG*, May 6, 1913, extra ed., 2.
1167 *Brief*, 243 (Frank's unsigned statement to the police, taken in the presence of his attorney Luther Rosser). Also, Frank's sworn testimony at coroner's inquest—see *AJ,* May 6, 1913, last ed., 11.
1168 See "Chronological Table of Frank's Actions on Day of Murder," *AC*, Aug. 22, 1913, 1; "Leo Frank Wrote His Own Alibi," *NYT*, Aug. 22, 1915. Despite Frank's fastidious insistence on the timeline agreed upon by him and his defense attorneys (and published in the *Atlanta Constitution* and the *New York Times*), he does not account for the departure time of Alonzo Mann from the pencil factory, though Mann's presence at the factory is noted.
1169 *Brief*, 130.
1170 *AG*, May 6, 1913, extra ed., 2.
1171 "Chronological Table of Frank's Actions On Day of Murder," *AC*, Aug. 22, 1913, 1. Also, *Brief*, 186.
1172 *Brief,* 182ff. Frank changed Mary's arrival time from "12:05" or "shortly after" 12 p.m. (at coroner's inquest) to 12:07 by the time of the trial.
1173 *NYT*, Aug. 22, 1915; *AC*, Aug. 22, 1913, 1.
1174 *AJ*, May 6, 1913, 11.
1175 "William Smith Tells Why His Opinion Has Changed As to Guilt of Leo Frank," *AC*, Oct. 4, 1914, 1.
1176 Phagan Kean, *The Murder*, 312-13, 315, 316. ADL's Dale M. Schwartz claimed in the 1982 pardon application that "Leo Frank was innocent to a mathematical certainty."

Phagan Kean, *The Murder*, 308. ADL National Director Abraham H. Foxman misleads readers in "Lessons of the Leo Frank Case Still Relevant," wherein he wrote in 2005 that Frank was "officially pardoned" by the state of Georgia. See http://archive.adl.org/ADL_Opinions/Anti_Semitism_Domestic/leo_frank.htm. Though Frank's 1986 pardon is legally insignificant, in that Frank was not deemed or found or declared to be innocent by the Georgia State Board of Pardons and Paroles, the term "pardon" was immediately flipped and reinterpreted by Frank partisans as "exoneration," as in Murray Friedman's book *What Went Wrong?* 66: "Leo Frank did not kill Mary Phagan. His innocence was finally established in 1982 [sic]…"

1177 Lindemann, *The Jew Accused*, 235-36.

1178 *The Secret Relationship*, 2:103-146ff.

1179 Quoted in ibid., 2:48.

1180 A very similar case is described in C.S. Monaco, *Moses Levy of Florida: Jewish Utopian and Antebellum Reformer* (Baton Rouge: Louisiana State Univ. Press, 2005), 64. A wealthy Jewish defendant in a murder case hired top attorneys and was acquitted. The community was outraged but it was not charged with anti-Semitism.

1181 Lasker, interview, 7.

1182 Albert Lasker in his first meeting with Leo Frank was accompanied by the editor of the New York *Evening Journal* Arthur Brisbane, the *New York Sun*'s executive editor (and recent former *Georgian* editor) Keats Speed, and private detective William J. Burns.

1183 Dinnerstein, "Atlanta in the Progressive Era: A Dreyfus Affair in Georgia," in *The Age of Industrialism in America: Essays in Social Structure and Cultural Values*, ed. Frederic Cople Jaher (New York: Free Press, 1968), 145, 147. See "The Frank Case," *AI,* Nov. 5, 1914, 4.

1184 Hertzberg, *Strangers*, 207; Dinnerstein, *Leo Frank Case*, 33; Golden, *A Little Girl is Dead*, 138. See also the William Breman Jewish Heritage Museum's *Breman Community* newsletter, Winter 2008, http://www.thebreman.org/the-museum/winter08web.pdf: "Negative stereotypes about 'foreigners,' coupled with fear of 'the other' (which, in the country as a whole, meant people from places other than the United States and in the South also included people from outside the region), fueled the prejudice and outrage surrounding the trial."

1185 For example: "…the mobs in the streets hungered for a more cosmic justice in this dark era of African-American lynchings than the lynching of yet another black man would seem to have satisfied." See Melissa Fay Greene, "The Old History-as-Novel Gambit: Leo Frank as a Fictional

Character," *Georgia Historical Quarterly* 82, no. 1 (Spring 1998): 75. Later (p. 80) Greene contradictorily adds, Frank was "captured more for his Jewishness than for any crime." The fallacy of that argument, of course, is this: The "mob" knew the identity of the actual child murderer —"yet another black man"—but chose an innocent white man to lynch instead. A "mob" of this mindset would have had to lynch both men for Greene's argument to be sustained.

1186 Lenora E. Berson, *The Negroes and The Jews* (New York: Random House, 1971), 38.

1187 Jonathan D. Sarna, *American Judaism: A New History* (New Haven: Yale Univ. Press, 2004), 133.

1188 *The Secret Relationship*, 2:60-63.

1189 Dinnerstein, *Leo Frank Case,* 63, 65.

1190 Gemma Romain, "The Jews of Nineteenth Century Charleston: Ethnicity in a Port City," paper presented at Seascapes, Littoral Cultures, and Trans-Oceanic Exchanges, Library of Congress, Washington D.C., Feb. 12-15, 2003, http://www.historycooperative.org/proceedings/seascapes/romain.html; Joseph Henry Gumbiner, *Isaac Mayer Wise, Pioneer of American Judaism* (New York: Union of American Hebrew Congregations, 1959), 76; David Philipson, *The Reform Movement in Judaism* (New York: Macmillan, 1907), 466-67; *Circa* 8, no. 1 (Spring 1999): 7; Leah Elizabeth Hagedorn, "Jews and the American South, 1858-1905" (PhD diss., Univ. of North Carolina at Chapel Hill, 1999), 114.

1191 Jonathan Sarna, "Anti-Semitism and American History," *Commentary* 71, no. 3 (March 1981): 47.

1192 *The Secret Relationship*, 1:220.

1193 Melnick, *Black–Jewish Relations,* 15. Emphasis ours.

1194 See *The Secret Relationship*, vols. 1 and 2.

1195 *AI*, Jan. 14, 1915, 4.

1196 *AI*, Feb. 26, 1914, 1; *AJ,* Feb. 18, 1914.

1197 "The Frank Case," *AI,* Nov. 6, 1913, 4. Also, after his clemency plea was rejected, the condemned man wrote to Albert Lasker: "The decision of the Prison Commission was a blow." Then, evincing Christ on the cross, Frank wailed, "I don't know why I am chosen to go through this ordeal." Oney, *ATDSR*, 488.

1198 Notwithstanding the multitude of Georgia's Blacks he allowed to be lynched. Dinnerstein, *Leo Frank Case*,129.

1199 Melnick, *Black–Jewish Relations*, 122.

1200 Jason Schulman, "The *Yahudim* and the Americans: The Leo Frank Affair as a Turning Point in Jewish-American History," *History Matters* (Spring 2007): 38, 47, Dept. of History, Appalachian State Univ., http://

historymatters.appstate.edu/sites/ historymatters.appstate.edu/files/leofrank.pdf. Emphasis ours.

1201 Melnick, *Black–Jewish Relations*, xi.

1202 Isabel Boiko Price, "Black Response to Anti-Semitism: Negroes and Jews in New York, 1880 to World War II" (PhD diss., Univ. of New Mexico, 1973), 128.

1203 Golden, *A Little Girl Is Dead*, 94.

1204 *AJ,* May 31, 1913, 1.

1205 "Jews, Lynching, and the Ku Klux Klan" chap. in *The Secret Relationship*, vol. 2:395-467. The sanitized version of lynching was the eugenics movement, in which, as has been shown, Jewish leaders played a major role.

1206 Allan Davis, "The Death of Leo M. Frank," *Jewish Criterion* (Pittsburg, Pa.), Aug. 20, 1915, 3. In 1899 the *Criterion* decried the lynching of Sam Hose even while maintaining that "Judge Lynch may have been a very useful individual many years ago…" "That Georgia Lynching," *Jewish Criterion* (Pittsburg, Pa.), May 12, 1899, 8; Melnick, *Black–Jewish Relations,* 123. "Georgia Mob Kills An Innocent Man? Lige Strickland Shares the Fate of His Accuser, Sam Hose; Ears And A Finger Cut Off Finally Put to Death by Hanging Instead of at the Stake; His Employer, Major W.W. Thomas, Said He Was Not Guilty, and Pleaded for His Life," *NYT*, Apr. 25, 1899, 1. The fact is whites were being lynched, often for aiding or interacting with Blacks. See Clive Webb, "The Lynching of Sicilian Immigrants in the American South, 1886-1910," *American Nineteenth Century History* 3, no. 1 (Spring 2002).

1207 *NYT,* June 17, 1915, 5.

1208 Bloom, "Interactions Between Blacks and Jews," 62.

1209 *CD*, May 29, 1915, 1.

1210 Frey and Thompson, *The Silent*, 53-54; "Jail Slayer Here to Escape Mob," *AG*, Aug. 27, 1913.

1211 Julie Buckner Armstrong, *Mary Turner and the Memory of Lynching* (Athens: Univ. of Georgia Press, 2011), 47.

1212 *A Statement from Governor Hugh M. Dorsey As to the Negro in Georgia* (Atlanta, Ga., 1921). Also, Robert W. Thurston, *Lynching: American Mob Murder in Global Perspective* (Burlington, VT: Ashgate, 2011), 12-14, 391-403.

1213 Robert L. Zangrando, *The NAACP Crusade Against Lynching, 1909-1950* (Philadelphia: Temple Univ. Press, 1980), 57-58.

1214 Oney, *ATDSR*, 614. See also Dittmer, *Black Georgia in the Progressive Era*, 82, 208-9. Also, "Dorsey Assails Slaton and Jews," *NYT,* Sept. 12, 1916, 3. Louis Marshall's response in

NYT, Sept. 13, 1916, 6.

1215 Marshall used a "states rights" argument against the bill —the very justification Southern segregationists used against the work of Dr. Martin Luther King. Worse, Marshall had opposed the state's rights argument in the Frank case when he argued for federal intervention to give Frank justice because the state of Georgia could not. His remonstration about the "anarchy" of lynching is in Charles Reznikoff, ed., *Louis Marshall, Champion of Liberty: Selected Papers and Addresses,* vol. 1 (Philadelphia: Jewish Publication Society of America, 1957), 315.

1216 Dinnerstein, "Atlanta in the Progressive Era," 142.

1217 Lewis J. Paper, *Brandeis* (Englewood Cliffs, NJ: Prentice-Hall, 1983), 212-13. The *New York Times*'s Jewish owner Adolph Ochs, for instance, opposed Brandeis's elevation to the high court and derided him as a "professional Jew." See Tifft and Jones, *The Trust*, 97.

1218 Eustace Mullins, *Secrets of the Federal Reserve: The London Connection* (Staunton, VA: Bankers Research Institute, 1983).

1219 "The Mother and the Stepfather of Mary Phagan Write," letter to the editor, *Jeffersonian*, July 15, 1915.

1220 *AG,* Apr. 29, 1913, night extra ed., 4.

1221 Michael Bronski, "The Return of the Repressed: Leo Frank Through the Eyes of Oscar Micheaux," *Shofar* 23, 4 (Summer 2005): 26-49, doi:10.1353/sho.2005.0137:

> As Jeffrey Melnick vividly documents in *Black–Jewish Relationships on Trial*, after her death Mary Phagan immediately vanishes from the narrative in almost all of the retellings of the story. In most of the books she becomes completely unimportant, even negligible to the "real story," which is about Leo Frank.…Historically, Phagan as female victim is trumped by Frank as Jewish victim.